Googleopoly:

The Google-DoubleClick Anti-Competitive Case

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Theory of the Case:

- **Google and DoubleClick each dominate the two leading competitive technology platforms to deliver targeted online advertising,** i.e. the market of using technology to monetize the intermediation of the three core online advertising constituencies: users, advertisers, and content providers, and also the leading business model for providing access to Internet content.
  - **With ~60% share of each of their respective technology platforms, search and display,** technologies which are mutually-reinforcing, the combination would enable a horizontal merger to monopoly, which would harm users, advertisers and content providers with higher prices and less choice.

Summary of Conclusions:

- The facts and evidence will **prove that the Google-DoubleClick merger will substantially lessen competition** in the appropriate defined-relevant market: *targeted online advertising* – **warranting the FTC to file an injunction in Federal court to block the transaction.**
- The facts and evidence will also **prove this to be a standard horizontal merger to monopoly** of competitive technology platforms in the targeted online advertising market, not a vertical merger of separate search and display markets, nor an inconsequential merger in the broader $300 billion advertising market including TV, radio, newspapers, etc.
- The market power created by the Google-DoubleClick merger **would lessen competition and harm consumers, advertisers, and content providers specifically** by:
  - Enabling Google-DoubleClick to effectively dominate:
    - Online ad-serving to websites;
    - The monetization model for accessing Internet content; and
  - Providing Google-DoubleClick greater opportunity to collude to manipulate the targeted online advertising market, raise prices, fix prices, and price predatorily.
- The facts and evidence will **prove consumer, advertiser, and content provider harm:**
  - Tens of millions of **consumers would be harmed** by facilitating an unregulated information access monopoly making consumers more vulnerable to: misrepresentation, conflicts, fraud, deceptive/unfair trade practices, and clandestine invasion of privacy.
  - Thousands of **advertisers would be harmed** by higher online ad prices, less real choice, and impaired market forces to prevent, investigate and rectify click fraud.
  - Hundreds of **content providers would be harmed** by higher prices (i.e. lower revenue ad splits) and less real choice for monetization of their digital content via the Internet.

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I. Introduction

A. What is the purpose of this paper?

The purpose of this paper is to present the case theory, structure and evidence of why this is a traditional horizontal merger to monopoly that will be blocked in court by the FTC.

More specifically, the goal of the paper is to provide sufficient evidence and argumentation to justify each of the major necessary points necessary for a successful case to block this merger:

- That the relevant market is targeted online advertising not advertising overall;
- That Google and DoubleClick each have enduring market power; and
- That combining the market power of both Google and DoubleClick is anti-competitive and would harm consumers, advertisers, and content providers.

In sum, the intent of this systematic, detailed and evidence-driven antitrust case against the Google-DoubleClick merger is:

- To make the complexities of antitrust more understandable for the interested layperson;
- To assist Congress in understanding the anti-competitive problems with the merger;
- To accelerate and improve the FTC's investigation into the anti-competitive effects of the Google DoubleClick merger; and
- To put in perspective the other related mergers in this industry: Google-Feedburner, Yahoo-Right Media, and Microsoft-aQuantive and WPP-24/7 Real Media.

B. What analogy puts Google-DoubleClick's market power in perspective?

Most observers do not appreciate how extraordinarily concentrated key parts of the Internet have become. **To put in perspective the relative market concentration that a Google-DoubleClick merger would create in the *intermediary market* of Internet advertising**, it is instructive to look at what a comparable level of market concentration would be in the *intermediary market* of finance or *capital markets*.

- **To assemble a comparable level of market dominance to a Google-DoubleClick combination in capital markets, one single company would have to own:**
  - The top ~15 Wall Street banks/asset managers;
  - ~60% of the hedge fund and private equity industries;
  - The New York and London Stock Exchanges;
  - The two leading providers of financial analytic tools: Bloomberg and Factset;
  - Two of the three national providers of credit profiles: Experian and Equifax; and
  - ~60% of the Federal Reserve's and U.S. Census' raw market and consumer data.

Few would try to argue that this analogous level of overall market concentration in capital markets would not substantially lessen competition, raise prices and limit choice.

C. Why has the anti-competitiveness of this merger been hard to discern?

There are a variety of strong reasons why the Government has not yet fully connected-the-dots of Google's breathtakingly fast accumulation of existing market power in targeted online advertising, let alone understand the anti-competitive implications of Google's rapid-fire acquisition strategy to extend its existing market power more broadly.

- The exceptional speed of the Internet's development, growth and flurry of new products, services, content and applications -- makes it a very difficult market to follow.

- Throughout the government and the private marketplace there is surprising and widespread ignorance and superficial understanding of how the Internet actually works in multiple dimensions: architecturally, technologically, economically, financially, competitively, legally, and internationally – and how these multiple dimensions of the Internet affect each other and inter-play.
    - While there are many experts with sophisticated understanding of their respective slivers of the Internet, there are precious few people outside of Google who see the Internet big picture clearly and understand the broader implications of Google's acquisition strategy and the Google-DoubleClick merger in particular.
    - In a word, ignorance is bliss.

- The derivative nature of the intermediary advertising market, where users do not pay for search in currency, they pay for search intangibly in terms of intrusion of ads and more importantly in terms of invasion of personal privacy.

- Old-line advertising agencies appear to be largely befuddled with many aspects of Internet technology, and are in a general state of denial over the competitive implications of online advertising technology for the advertising business in general.

- Google's tight corporate secrecy and its lack of transparency for investors, leaves most people with a very superficial or "brand level" understanding of Google.

- Google's extraordinary popularity as the world's number one brand after only a few short years as a public company creates wide popular awareness, but offers little real understanding about what the company does to make money.

- Finally, Google has been very effective in its public relations dismissals to date of the festering problems of Google's alleged: market dominance, invasion of privacy, click-fraud, and intellectual property theft.

The Google-DoubleClick merger, the FTC's investigation of the merger, and the likelihood that the FTC will eventually oppose the merger and block it, **will prove to be a watershed event for the business model of the Internet and the Internet monetization architecture, whatever the final outcome of the merger**.

II. What is the relevant market? -- "Targeted online advertising"

A. Why is online advertising a separate market from the advertising market?

1. What is the online-offline dichotomy?

The advent of the Internet created the fundamental dichotomy of offline and online advertising. All advertising involves communications and since the Internet has radically changed communications, the Internet has radically changed advertising.

- **Architecture separates**: At its core, the Internet is well-known to have created a different communications architectural paradigm.
  - Internet architecture used for advertising, enables *many-way, many-to-many* communications, which differs fundamentally from:
    - Telecom/wireless telemarketing, which enables *two-way, one-to-one* telecommunications;
    - Advertising over-the-air broadcast, cable, and direct broadcast satellite, which enables *one-way, one-to-many* broadcast communications.

- **Interactivity separates**: One of the values of Internet architecture is that it enables formerly *one-way* broadcast communications to become *two-way* or *many-way* communications. Virtually every type of *non-interactive* offline communication can be made *interactive* communication when done online.
  - The value of interactivity to advertising is that it transforms "marketing" more into "selling" by enabling: greater engagement with potential buyers, "building a "relationship," more investment of buyers' time, more information/feedback from buyers, more ability to follow-up, and more ability to measure results, among other differences.

- **Separate audiences**:
  - The online advertising audiences are people who have either Internet access (~70% in U.S.) or who have broadband access (~50% in the U.S.), which is a substantially smaller and different subset than the 90+% of Americans who hear radio, watch TV and/or read newspapers/magazines.
  - The online audience is global; newspapers are local; radio is local or national; and TV is mostly regional or national.

- **Different drivers**: The Internet has empowered users with more freedom to drive the content that they see. The Internet, by its very nature, is a user-driven content medium where users tend to go online to find content they want. In contrast, radio, TV, and newspapers are supplier-driven mediums providing content that they hope users will value and seek out.

- **Different economics**: Internet leaders like Google, eBay, and Amazon are big proponents of the notion that the Internet has actually changed the laws of economics. Chris Anderson's seminal bestseller "*The Long Tail*" may be the best detailed explanation of the new theory of the "economics of abundance." According to the theory, the Internet creates a new "economics of abundance," because the incremental cost of storing content on servers and transmitting digital content on the Internet is near zero, in stark contrast to the high costs of storage and delivery of physical goods in the "bricks and mortar world." This new school of economic thought, which is still in its early stages of development, is a direct, intellectual assault on decades of economic thought based on the fundamental principle of economics, "scarcity," where prices are set by the relative "scarcity" of supply and demand. According to the "economics of abundance" theorists, the Internet creates a multitude of new niches, "the long tail" of the supply curve that would not exist except for the existence of an Internet with extremely low marginal cost characteristics.

- **Different consumer expectations**: The immediacy of clicking and reaching content on the Internet creates greater impatience of consumers' online vs. offline. While consumers have become accustomed to waiting through 1-3+ minutes to resume hearing or seeing their radio or TV content, the tolerance/attention span for Internet users waiting for their Internet content is a fraction of that -- say 5-15 seconds. There is also a large and vocal segment of the Internet audience that expects to get everything on the Internet (content and applications) for free, a la Napster, Skype, etc.

    ***Note**: Google finds itself in a real dilemma in defining the relevant market here. For the purposes of gaining approval of this merger, it is strongly in Google's interests to try and define the relevant market as the entire ~$300b U.S. advertising market and not the ~$17b online advertising market according to the Interactive Advertising Bureau, the market in which Google has substantial market share.*

    - *For Google to argue in the context of this merger that the online and offline markets for advertising are the same market, will require Google to repudiate years of public statements, by a multitude of Google representatives, in a multitude of forums.*

    - *The FTC staff will have no difficulty assembling a mountain of evidence in Google's own words about how different and better advertising can be online vs. offline. Google's official documents for investors before and since going public are rich sources for this evidence as will be the sales material that the FTC can subpoena, material which explains the value of online advertising in enabling better measurability and target-ability than offline advertising.*

    - *On their conference call announcing the Google-DoubleClick merger, Google officials explained the benefits were better tools, better measurement, better targeting. According to Google, online advertising is much more "relevant" than offline advertising.*

- *The dilemma that Google finds itself in will only get tougher if and when the FTC requires affidavits under oath on this market definition. Every Google representative asserting under oath that the online market is just part of the broader offline market of advertising, will have to consider if there is a record, recording, letter, memorandum, or public statement that another Google representative may have made that could directly impeach their sworn testimony.*
    - *It is ironic that Google's own search engine will be the easy source for "discovering" the many places where Google representatives publicly touted the value and benefits of Google's online advertising vs. offline advertising.*
    - *And being under investigation and subpoena power, Google's General Counsel would be well advised to supervise the team of engineers that constantly "tweak" the Google search engine. Any "tweaks" that make it more difficult for the FTC to "search", and "discover" Google-relevant records and statements could be interpreted as obstruction of justice.*

2. What is the targeted-non-targeted market dichotomy?

The advent of the ability to efficiently track, analyze and target certain consumer behaviors/interests with targeted online advertising has **created a growing business-model dichotomy** between traditional, *impression*-based online advertising and newer, *action/performance*-based online advertising. On the traditional, impression-based end of the online advertising business model continuum, advertisers shoulder more of the cost risk in reaching the desired audience, while on the newer, performance-based, opposite side of the online advertising business model continuum, ad-providers like Google shoulder the cost risk in actually reaching the desired 'target" audience.

- **Traditional impression-based online advertising (CPM)**: CPM is cost per thousand impressions or the cost for an online ad to be available to be seen by a thousand online viewers. This business model is similar to the traditional TV/radio advertising business model where you pay a lower bulk impression rate per viewer to reach a larger less defined audience.

- **Newer performance-based online advertising (CPA)**: CPA is cost per action, a results-driven payment model based on qualifying actions like sales of registrations. This business model is the opposite of the bulk CPM model because it is focused on causing a desired behavior, a sale, registration or some other selling step, and because the risk is shifted from the advertiser to the online ad publisher.

The Interactive Advertising Bureau (IAB), in its May 2007 Internet Advertising Revenue report, spotlights the trend that hybrid pricing, a mix between traditional CPM and newer CPA, is rapidly declining and being replaced with the growing CPM/CPA dichotomy. (In 2005 13% of Internet ad revenues were hybrid, but in 2006 fell to 5% of Internet ad revenues.) Moreover, in this industry transition away from hybrid pricing model to a dichotomy pricing model, performance or CPA pricing is gaining share at a greater rate than traditional CPM advertising. CPM increased from 46% to 48% from 2005 to 2006, while CPA grew from 41% to 47% from 2005 to 2006 in an online advertising market that grew 35% from 2005 to 2006 from $12.5b to $16.9b.

Google has pioneered and largely defined this transition towards more "targeted" online advertising. Google has long argued that targeted advertising helps users by reducing ad clutter, which means presenting fewer ads to better targeted audiences. Google argues that targeted advertising also benefits advertisers by reducing their risk in wasting ad dollars on users not interested in their message, and by giving advertisers better measurability of effectiveness. Better measurability enables advertisers to more fully understand the return on investment (ROI) of their ad spending and enables advertisers to better compare targeted online advertising to other advertising mediums.

The future of online advertising is more efficiently targeting the matching of buyers/consumers with sellers/advertisers. A big reason why ad dollars are shifting from TV, radio, and newspaper to the Internet is that targeted online advertising enables direct, customer-specific, feedback data on the impact and effectiveness of the advertising. Radio, TV and newspapers require indirect surveys and statistical extrapolation to discern their effectiveness in very general terms. Online advertising enables a more efficient advertising effort and more ROI effectiveness per ad dollar.

To excel in targeted advertising requires a great deal of historical and comprehensive click data, consumer interest information (searches), and Internet consumer behavior (Internet traffic metadata.) The Internet, combined with "cookie" web tracking technology, and the ability to store and process massive databases, has created the most sophisticated capacity to monitor, analyze, and predict consumer behavior ever assembled.

- Google, with 65% of the rapidly growing search market (according to HitWise), has more than three times the "relevant" consumer data of its next closest competitor, Yahoo with ~21% share, and over seven times the "relevant" consumer data of Microsoft with ~8% share.

- DoubleClick, with 60% of the ad-serving publisher market has more than twice the "relevant" consumer click data as its number two competitor, 24/7 Real Media with 25% share, and about twelve times the "relevant" consumer data of the number three competitor, Atlas (which has 5+% share and which is pending to be bought by Microsoft.)

B. Why are Google/DoubleClick competitors in "targeted online advertising"?

Advertising is fundamentally an *intermediary* market where consumers/buyers are matched with suppliers/sellers. **Targeted online advertising is basically a technology market where different technology platforms, like search engines and ad-servers, compete to better intermediate and target consumers with advertisers' messages.**

Both Google and DoubleClick offer the same targeted online advertising value proposition, to the same: corporate advertising clients, Internet users, and websites -- just employing different technology platforms.

- DoubleClick CEO David Rosenblatt admitted that there is "*a very high overlap between the two in the value chain*" on their April 13^{th} conference call announcing the merger.

- Google CEO Eric Schmidt also admitted on that call that the Google-DoubleClick merger was "*a way of solving, in an end-to-end way, the problems in search and display advertising.*" While also noting the two companies' "*obvious alignment*" and "*strong alignment of goals*."
  - "*Solving, in an end to end way, the problems in search and advertising*" is another way of saying that merging mutually-reinforcing technology platforms together makes them both better in brokering their advertising clients with their advertising audience.

- These two CEOs also implicitly understand that their companies' "*obvious alignment*" comes from being "two sides of the same coin" or two sides of the same market – to monetize the online audience for advertisers.
  - Google uses *search* technology to monetize the online audience for advertisers.
  - DoubleClick uses *ad-serving* technology to monetize the online audience for advertisers.

Both Google and DoubleClick work for the same advertising clients: corporate marketers and their various advertising intermediaries.

- As the dominant search engine with ~65% share in the US and ~75% share in Europe, Google's AdWords and AdSense programs work for the lion's share of advertisers in the global corporate 1000.

- As the dominant ad-serving publisher company with 60% share of that segment, DoubleClick claims "the world's top marketers, marketers, publishers and agencies" as clients, or in other words, DoubleClick also works for the lion's share of advertisers in the global corporate 1000.

Both Google and DoubleClick serve the same target audience: the global market of Internet users.

- Google reaches ~65% of the global Internet audience of over a billion Internet users worldwide.

- DoubleClick's ads served through its network of top websites reach as much as 80-85% of the global Internet audience of over a billion Internet users worldwide, per EPIC estimates.

- Both Google and DoubleClick target the entire Internet audience while Yahoo/Microsoft/MSN, which both seek to primarily be leading proprietary brands and destinations on the web, do not target the entire Internet audience in the same way.

Both Google and DoubleClick basically do the same core business function, i.e. "serving" ads, albeit using different technology platforms and ad formats.

- Google leverages its market-leading search engine technology to attract users to look for information via its search bar. Once a user engages the search engine, Google presents the user with a results page. That page takes the form of a unique, original, customized website for that particular search query.
  - Google then "serves" ads by presenting text links on the right column, or by positioning some text links as sponsored links at the top of the search results.
  - **Google *chooses* to serve text ads on these unique customized web pages; they could just as easily serve banner ads or rich media on these web pages like DoubleClick routinely does for websites/publishers**.
  - Simply, Google constructs and controls a unique customized search web page for users and can use that page to serve the user ads in any form Google desires.

- DoubleClick serves ads a step or two later in "the value chain" by serving ads to Internet users that have already reached their desired Internet destination. Internet users could have reached that destination directly via a browser bar entry or indirectly via a search engine bar entry.
  - Once the user has reached its desired destination, DoubleClick then leverages its market-leading ad-serving technology by serving them a variety of ad formats: display, banner, or types of rich media, anywhere on the web page the user is looking at.

- One reason **why Google-DoubleClick are such powerful mutually-reinforcing technologies is that with the proposed merger, Google could continue to serve the consumer more targeted ads after the user left Google's customized search results pages and arrived at the desired third-party website.**
  - In the instance that the user visits a content provider in the Google AdSense network, Google would dramatically increase its advertising market share of user's "eyeballs" on that site. It is this big overlap that the FTC will want to quantify.
  - In the instance that the user visits a content provider un-affiliated with the Google network, it would enable Google to serve ads to that user that they do not reach without owning DoubleClick.

Both Google and DoubleClick's technology platforms to serve ads could be easily adapted to enable the other's technology platform to serve their respective specialty of ads to each other's ad-serving platform because text, banner, display, and rich media are essentially just interchangeable digital ones and zeros formats at their most basic level.

- In other words, DoubleClick could serve ads onto Google's search results pages and Google could serve its search-based ads by gaining access to content providers currently served by DoubleClick and Google's search *competitors*.

- **The easy technological interchangeability of Google and DoubleClick's ad-serving formats (text, display, rich-media) mean Google and DoubleClick are *direct competitors*.**

Both Google and DoubleClick have pioneered CPA/Cost per Action or performance pricing models.

- Both have leveraged their dominant share position in their respective technology platforms to structure business models where they can exploit their vastly superior market information, which confers a potentially anti-competitive advantage in targeting online advertising. In other words, better and more information about consumer Internet behavior enables them both to better target consumers and create better advertising "relevancy."

- Both Google and DoubleClick serve advertisers seeking to use online technology to more effectively target their advertising for better sales results and better advertising ROI.

While Google and DoubleClick compete in same market, they approach it from different technological directions.

- Google entered the online advertising market through search technology and solving the technology problem for users of finding information, i.e. finding "needles in the haystack."
    - Meeting this unmet user need better than any other search engine, enabled Google to lead the global Internet market in aggregating Internet users into an audience for advertisers to reach and target.

- DoubleClick entered the online advertising market as the founder of ad-serving technology and solving the technology problem for advertisers of efficiently customizing the placement of ads on websites throughout the Internet.
    - Meeting this unmet need better than any other ad-serving technology, enabled DoubleClick to lead the global Internet market for aggregating Internet users via website traffic into an audience for advertisers to reach and target.

- Since Google and DoubleClick entered the targeted online advertising market from different directions, Google with technology focused on serving users, and DoubleClick with technology focused on serving advertisers, Google and DoubleClick's respective success and increasing dominance of their most immediate segment, **is increasingly making Google and DoubleClick direct competitors** in the targeted online advertising segment.

- **Now that Google and DoubleClick have each dominated their individual segments they see acquisitions as the most effective and fastest means to further dominate the broader targeted online advertising market including:**
    - **Video streaming through YouTube;**
    - **Blogging through Feedburner; and**
    - **Ad-serving, performance measurement/metrics, analytic tools, ad brokering and advertising exchanges through DoubleClick**.
- Google acquired these companies because they could not compete effectively with them straight up.

Lastly, and maybe most compelling, DoubleClick CEO Rosenblatt describes search as display as being in the same market in the transcript of his video interview on DoubleClick's website.

- *"…we're also excited about the ability to begin to bring together some of the different channels within online that previously had been managed separately – specifically search and display. And when you put those things together – new economic models delivered through new user interfaces and other things that impact our customers on a day-to-day basis – we believe that we have an opportunity to take advantage of our position to really reshape the way people think about the Internet media industry in ways both large and small*."

- Translation: the combination of Google and DoubleClick's will enable us to "take advantage of our position" (market power) to "reshape… the Internet media industry."

III. What barriers make Google and DoubleClick's dominance enduring?

A. What barriers to entry make Google's search dominance enduring?

While Google claims to be in a highly competitive search market, by pointing to over a hundred search engine competitors and the few-clicks-ease with which any user can switch to a different search engine, this competitive assessment is only superficially true.

1. Why are start-ups not a legitimate competitive threat to Google?

It takes much more than a better algorithm to compete in search and targeted online advertising. There are **substantial economies of scale required to successfully compete** directly with Google.

- Google operates the world's largest parallel processing computer grid in the world comprised of over one million specially networked and customized servers in multiple data centers capable of:
  - Processing hundreds of millions of searches every day, with sub-second response time;
  - Indexing tens of billions of web pages daily;
  - Making an actual copy of the entire Internet regularly: (every word of every page to store in its data centers in order to speed search response time); and
  - Storing trillions of historical searches.

- Google is the top brand in the world. It would take a competitor billions of dollars and years of time to achieve Google's brand status, if it was even possible.

- Google has over a half a billion users worldwide and is growing much more than any of its competitors. Any start up would begin many years behind.

- Google's search algorithm is state-of-the-art and Google leads search R&D. *(Saul Hansel, "Inside the Black Box, Why Google can't stop tweaking its search engine" NYT 6-4-07)*
  - Google has a set of search methods, which are far ahead of the academic research.
  - Moreover, Google's algorithm is based on over 200 proprietary variables of relevancy called "signals" and formulas called "classifiers" which have been honed and refined with the real life feedback of over trillions of live searches and countless requests for improvement.
    - For example this experience has taught Google the desired answer for the myriad of ways people misspell or accidentally mischaracterize what they are looking for.
    - Google also has a market-leading team of engineers continually tweaking and improving their search engine to stay ahead of the competition.

  - Google offers services in 112 languages in contrast to Yahoo, which is an older company than Google, which offers services in around 20 languages.

- Google, with its market leading search infrastructure, searches dramatically more raw amounts of information than any other search engine.
  - Google knows **a search engine is only as good as the amount and quality of info it searches**.
  - Google's breathtaking mission: "*to organize the world's information and make it universally accessible and useful*" is powerful evidence of its understanding of the importance of how much info is searched.
  - Google is leading the market in digitizing most all of the world's books and publications and has invented the world's fastest scanning technology to ensure it maintains its market lead in accumulating digital copies of the world's information.
  - A start up can't claim to search anywhere near the capacity of the world's information that Google can.

- In short, a start up search engine seeking to compete effectively with Google faces similar barriers to entry to what a single gas station would face in trying to compete with Exxon Corporation.
  - They may succeed in a small or local niche, but they are not going to be able to compete on a national or global scale on an ongoing basis.
  - **For a start up or small competitor to become a direct competitive threat to Google, they must have the resources to:**
    - **Construct and maintain a comparable database of all Internet content;**
    - **Construct and maintain a comparably responsive search processing grid and global network of data centers; and**
    - **Rapidly build a hundred-million-plus user search audience/customer base to warrant funding the previously mentioned infrastructure and manpower.**
  - So if start ups or small competitors can't realistically compete with Google what about Google's self-described primary competitors: Microsoft and Yahoo?

2. Why are Microsoft and Yahoo decreasingly competitive with Google?

The facts and evidence show that Google's leading competitors, Microsoft and Yahoo, are steadily decreasing in competitive viability vis-à-vis Google. The reasons for that decreasing competitive viability include the reasons discussed above, but more importantly involve additional "network effect" reasons that will be discussed below.

There is a **growing body of evidence that Google enjoys multiple enduring "network effects." That means Google has reached a "tipping point" in the Internet content search segment**, where its current market dominance is leading to an enduring monopoly.

- **Audience tipping point**: With over a half billion users worldwide, Google has created the largest consistent advertising audience in the history of media.
    - Why this matters is that Google's economics (and market power) directly derive from its overwhelming *relative audience size*. When Google/Yahoo/Microsoft approach a third party content provider to be the wholesale provider of search and ad-serving services for a high traffic website, they bid on how much revenue they will provide to the third party. Because Google has 2-3 times the size audience as Yahoo it can afford to bid a dollar amount 2-3 times more than Yahoo can. Because Google has 5-6 times the size audience as Microsoft, it can afford to bid 5-6 times higher than Microsoft to win that third-party search/ad-serving business.
    - Google's vastly bigger audience, combined with the Google's network effects and faster and broader international growth than Yahoo or Microsoft, **give Google the unmatched ability to guarantee minimum, multi-million-dollar, multi-year, revenue-sharing payments to third-party websites.** The clearest example was Google's willingness and ability to guarantee MySpace, the leading social networking service with minimal revenues, a $900m minimum guaranteed revenue-sharing arrangement over four years. **The assumption of that level of market risk without a blink from the marketplace is powerful evidence of Google's relative market power in providing advertising services/revenues to third-party websites.**

- **Content wholesale network tipping point**: Google's accumulation of the world's largest audience has contributed to another self-perpetuating network effect, Google's aggregation of the world's largest network of Internet content providers in the world. While Google does not disclose all of its Adsense content partners in the Google network, Google has assembled the "lion's share" the world's top third-party content providers:
    - *MySpace, AOL, Ask.com, about.com, AT&T.com, Earthlink, NYTimes.com, CNETSearch.com, Lycos.com, shopping.com, engadget.com, Digg.com, dogpile.com, business.com, HowStuffWorks.com, Techtarget.com, MyWebSearch.com, Information.com, Infospace.com, foodnetwork.com, blogthings.com, netscape.com, Compuserve, Luxist, US News and World Report, CBSSportsline.com, Carconnection.com, MarthaStewart.com, Morningstar, HotorNot.com, tripadvisor.com, Oingo.com, dealtime.com,PlentyofFish.com, among others.*
        - This is not an exhaustive list only an illustrative list.
    - Why are Yahoo and Microsoft unlikely to be able to develop competitive alternatives to Google's dominant third-party content network?
        - **Yahoo and MSN, as leading Internet traffic destinations are viewed as direct competitors to third-party websites for attracting Internet traffic.**
        - Many Internet content providers, especially those with similar offerings as Yahoo/MSN would be concerned that Yahoo and Microsoft/MSN have a competitive conflict of interest in being the wholesale search engine for their site. Would their search engines have a bias to skew traffic to its own proprietary sites?

- **Targeting/personalization tipping point**: Given that much of the business model of targeted online advertising depends on the amount and quality of search history or search metadata (data on data), Google's largest audience of over a half billion users, and its superior search expertise provide Google with vastly more and better information to make their searches more relevant/personalized/targeted, is the key to maximizing the monetization of targeted online advertising.

- **Acquisition economics tipping point**: Google's willingness and ability to outbid everyone to acquire YouTube for over $2b despite no revenues, and its ability to reportedly bid twice what Microsoft bid for DoubleClick, despite Microsoft being a much bigger company in revenues and having a much bigger market cap, is additional evidence of Google's market power in this segment.
    - The acquisition of YouTube adds to the audience network effect because it instantly gave Google more than 60% of the video search market and enabled Google to provide a better integrated, text/video search experience than Microsoft or Yahoo. There is no other site that can match YouTube in that type of traffic so Microsoft of Yahoo are unlikely to be able to catch Google in video search through organic growth.
    - The acquisition of YouTube has catapulted Google to #1 in the world in video streaming users on the Internet per ComScore.

- **Tracking metadata tipping point**: Because Google serves more third-party content providers than any Yahoo or Microsoft, they have access to more Internet traffic tracking data than any other company**. The most traffic means the best tracking, the best tracking means the best measurement, the best measurement means the best targeting, the best targeting means the best advertising relevancy, ROI.** This is a classic antitrust definition of a network effect where more begets more.

Google's CEO Eric Schmidt recently spoke candidly about Google's self-reinforcing array of network effects in a USA Today CEO Interview May 16, 2007 "*Schmidt says he didn't grasp the power of Google at first*":

- Question: "*What's your take on why Google keeps growing, while your competitors have such a hard time catching up*?"
    - Answer: "*…We get more users, and that gets us more advertisers. More advertisers give us more cash, more cash gets us more data centers, more data centers means we can get engineers who want to build even bigger data centers and do more amazing computer science. Those engineers bring in their friends to build more amazing ad systems and also work on great search. That cycle is very real at Google.*"
        - That "very real" "cycle" Mr. Schmidt so candidly describes -- is also well understood to be "network effects" in antitrust terms.

- Question: "*What about the size issue? Critics say that Google has gotten too big.*"

- Answer: "*Our size is a function of our success with end users. Size isn't a problem. Size has some benefits – like getting more information, more execution and more global service*."

- Google's CEO Schmidt is obviously very well aware of Google powerful network effects and market power.
  - In a sense, **Google has "network effects on steroids;" their network effects spawn network effects of their own**.

a. Why will Yahoo continue to fall behind Google competitively?

While Google and Yahoo consider each other one of their top two competitors, and Yahoo has the #2 search engine by market share, they are actually very different businesses. And those differences explain why Google is, and will continue to increasingly distance itself competitively from Yahoo.

- **Marketing vs. technology**: Yahoo describes itself as a "*leading global Internet brand and one of the most-trafficked Internet destinations worldwide.*" In contrast, Google describes itself as "*a global technology leader focused on improving the way people connect with information*."
  - Yahoo's business is marketing-focused, Google's technology-focused.
  - **Yahoo originally used Google as its search service**. When Yahoo discovered how effective and lucrative search advertising was, Yahoo acquired Inktomi's search service and Overture Services' search ad selling business.
    - **The key takeaway here is that Yahoo historically has had to outsource its search capability; it has never been a core competency and mission for Yahoo like it is has been for Google.**
    - Moreover, the New York Times reported in "*Yang is Back, So Now What for Yahoo*?" (6-20-07) that **Yahoo's leadership has contemplated exiting the search business and outsourcing its search function to Google**, and may consider that option again in the future.

- **Content provider vs. content access**: Yahoo says it works for users and advertisers. In contrast, Google says it works for users, advertisers *and content providers*. **Herein is the huge business model difference between Yahoo and Google**:

  - **Proprietary vs. non-proprietary**: At its core, Yahoo is focused primarily on monetizing its *own* proprietary and affiliated content. Google is not a proprietary *content* provider, but a proprietary *application* provider, that is focused on enabling Yahoo's content provider competitors to monetize their own proprietary content.

  - **Part vs. whole**: Yahoo is focused primarily on serving *a subset* of the Internet audience, while Google is focused on serving *the entire* Internet audience, including Yahoo's audience. This is the structural reason Google is taking share from Yahoo. Moreover, Google has greater emphasis on international (112 languages vs. 20+) and greater international revenue mix (US/International for Google is 56/44 but for Yahoo is 68/32). Thus Google enjoys substantially more scale and scope than Yahoo by not being a proprietary content retailer.

  - **Destination vs. virtual conduit**: Yahoo sees its business as creating a place/website where users want to go. Google sees its business as being the conduit to Google's private copy of every page on the Internet, including Yahoo's and Microsoft's.

  - **Yahoo audience vs. Internet audience**: Yahoo's market ambitions are orders of magnitude smaller than Google's. Yahoo seeks to serve those who want a proprietary website, while Google seeks to serve all Internet users.

  - **Retail vs. wholesale**: Yahoo is an Internet content *retailer*, hence the focus on brand and marketing. Google is a technology *wholesaler to* content providers. In other words, Google partners with and works for most all of Yahoo's largest content provider competitors. The fact that Yahoo directly competes with most major Internet content providers and Google does not means that Google has a powerful competitive advantage over Yahoo in the wholesale search market. **Given this competitive conflict, Yahoo faces an enduring structural impediment in competing with Google for Internet content.** Simply, Yahoo is a web content retailer while Google is a web content wholesaler.
    - This is also why Yahoo's touted search engine upgrade called "Panama" will continue to disappoint.

  - **Partial ad monetization vs. pure ad monetization**: Given that Yahoo is focused on creating a "sticky" community destination of proprietary content and premium services, Yahoo is pursuing a mixed revenue model of advertising and subscription fees. (Yahoo's revenue mix is 87% ads and 13% fees.) Google on the other hand has the benefit of pursuing a pure ad based monetization model, the most successful Internet business model. The Internet subscription model has largely failed, e.g. AOL's transformation from subscription to ad-based. Google is purely focused on a monetization strategy that is proven to work, where Yahoo is split focused trying to make a flawed subscription model work against the market trends. **Another way of looking at this is that Yahoo is still figuring out how to sell *its own* content, while Google has mastered how to best sell *everyone else's* content.**

- **Yahoo's "Panama" Project**: Many in the market and the media have a superficial view of what is required to be truly competitive with Google and take search market share. They are looking to Yahoo's new search engine upgrade, "Panama," to transform all of Yahoo's relative weaknesses discussed above and out-monetize Google in the search market.
  - **The competitive impact of "Panama," which has been negligible to date, will be an excellent case study for antitrust authorities to gauge whether or not**

Google truly has market power. More Panama/competitive “proof points” will emerge in Google’s second quarter earnings report in July and third quarter earnings report in October.

- Is it the search algorithm that determines success in search or is it economies of scale/scope and network effects, which determine competitive success in the search market segment? The evidence is overwhelming -- it is the latter.

b. Why will Microsoft continue to fall behind Google competitively?

While Google considers Microsoft its number one competitor, Microsoft does not view Google as a primary competitor. For antitrust purposes, what matters more is what the competitor thinks and is doing -- not what the dominant player claims.

- In its annual 10K filing with the SEC, Microsoft does not mention Google as a competitor in five of its seven business segments, including the top two which comprise two thirds of Microsoft’s revenues. Microsoft’s primary competitors overall are: Apple, Hewlett-Packard, IBM, Sun Microsystems, and Linux.

- The business segment most directly competitive to Google, what it calls MSN or online, represents about 5% of Microsoft’s revenues, and Microsoft lists AOL, Google, and Yahoo as its primary competitors in that segment.

- In its #3 business segment, called “Information Worker” which represents about one quarter of Microsoft’s revenues, Microsoft lists Google among it’s competitors in that segment: Apple, Corel, Google, IBM, Novell, Oracle, RedHat and Sun Microsystems.
    - It is important to note that this applications business segment that Google has invested heavily in order to compete with Microsoft, is generating negligible revenues for Google to date as ~99% of Google’s revenues come from advertising. In other words, Google is currently more a potential competitor to Microsoft in this quarter segment of Microsoft’s business than a current serious direct competitor.

What this means for this case is that Microsoft is overwhelmingly in a different business than Google and that **Microsoft is not primarily focused on competing in the search market**. Simply, Microsoft has bigger fish to fry.

- In terms of revenue priority, search falls in Microsoft’s #5 revenue bucket and that segment is ~5% of Microsoft’s global business.

- In describing in the general business summary how Microsoft generates revenues in its 10K SEC filing, Microsoft does not mention “search.” “We generate revenue by developing, manufacturing, licensing and supporting a wide range of software products for many computing devices.” After listing their software products; their provision of consulting and support services; their selling of Xbox, games and peripherals; Microsoft lists its online offerings, but does not mention search or online advertising in this overall summary of how Microsoft generates revenues.

Like the discussion above, about how Yahoo and Google are very different businesses, Microsoft and Yahoo are also very different businesses. This explains why Microsoft has heretofore failed to gain share and actually lost substantial search market share at precisely the time they have "developed their own algorithmic search engine." **The fundamental businesses differences and focuses discussed below argue that Microsoft is not going to be able to become a sufficient competitor to overcome Google's market power in the monetization of accessing Internet content**.

- **Search technology vs. software technology**: 99% of Google's business is focused on being the "*global technology leader focused on improving the ways people connect to information*." 95% of Microsoft's business has a very different focus: "*We develop and market software, services, and solutions that we believe deliver new opportunity, convenience, and value to people's lives*."
    - What this means is that the purposes of companies' core technologies are very different.
        - Google's technology is about *accessing other's* information.
        - Microsoft's technology is about *generating and processing your own information* through software applications.
    - More simply, Google's technology works from the outside-in, from the world to the individual, while Microsoft's technology works from the inside-out, from the individual/business to the world. This point becomes clearer when one contrasts Google and Microsoft's different missions:
        - Google: "*our mission is to organize the world's information and make it universally accessible and useful.*"
        - Microsoft: "*our mission is to enable individuals and businesses throughout the world to reach their full potential.*"

- **Web/network-centric vs. computing-centric**: Google uses the *Internet/web* and Google's network of servers in data centers as its operating platform. Microsoft uses *computers* as their operating platform.
    - What this means is that search and accessing content efficiently "goes with the natural flow" of a Web/Internet platform, where search and accessing content "goes against the natural flow of a computing platform. In other words, search looks for its computing power in a distributed manner, where Microsoft primarily looks for its computing power on the device where its software resides. Microsoft is currently scrambling to adapt to the more efficient web services platform of the web future, but it is being forced to adapt and play catch up, while Google is already there and rushing ahead with the flow.

- **Proprietary vs. non-proprietary**: Like Yahoo, Microsoft with its MSN proprietary content, is focused primarily focused on monetizing its *own* proprietary and affiliated content, not the vast market of third party Internet content. Google is not a proprietary *content* provider, but a proprietary *application* provider, that is focused on enabling Microsoft's content provider competitors to monetize their own proprietary content.

- **Ad based vs. subscription based**: Google and Microsoft have very different business models. Google has mastered and is the world leader in the advertising-based monetization of Internet services. Most all of Microsoft's revenues are for transaction purchases of their software or products or subscription fees for services. This legacy subscription business model, which generates over $16 billion in profits for Microsoft, is a powerful disincentive to aggressively learn, adapt and change Microsoft's business model to advertising monetization on the web. Advertising monetization is relatively new to Microsoft and it goes against the culture and organization. It is hard to see how Microsoft can quickly and sufficiently transform its ability to compete on the advertising-monetization competitive playing field.
    - Microsoft's purchase of aQuantive is strong evidence of Microsoft's lack of understanding of the advertising model. The most valuable part of aQuantive to Microsoft is the ad-serving segment, Atlas, which has only 5% share of ad-serving compared to DoubleClick's 60% share of ad serving and 24/7 real Media's 25%. Moreover, Microsoft has indicated it will keep Avenue A/Razorfish, aQuantive's large interactive advertising arm. The big problem with keeping Avenue A/Razorfish in the Microsoft orbit is that is generates a substantial conflict of interest for Microsoft. Microsoft is the 37th largest advertiser overall, and Avenue A/ Razorfish customers could legitimately worry that Microsoft would get preferential treatment for placement of prime advertising at their expense.

- **Retail vs. wholesale**: Microsoft/MSN is an Internet content retailer. Google is a technology wholesaler *to* content providers. In other words, Google partners with, and works for, most all of Microsoft/MSN's largest content provider competitors. The fact that Microsoft/MSN directly competes with most major Internet content providers, and Google does not, means that Google has a powerful competitive advantage over Microsoft in the wholesale search market. **Given this competitive conflict, Microsoft faces an enduring structural impediment in competing with Google for Internet content**. Simply, Microsoft/MSN is a web content retailer while Google is a web content wholesaler.

- **Unencumbered vs. antitrust encumbered**: It can't be overstated that Microsoft is an encumbered competitor in search. Under the ongoing antitrust supervision of a Department of Justice oversight committee, Microsoft cannot be a free-wheeling competitor in search. There is a litany of facts of Microsoft anti-competitive actions that were never overturned in court and under which Microsoft must live. It is the aggressive bundling tactics that the court found to be anti-competitive, that Microsoft would need to engage in, for Microsoft to have any chance in competing against Google's growing market power in the monetization of access Internet content. There is little reason to believe that these substantial antitrust restrictions on Microsoft are going away any time soon, or that antitrust authorities will proverbially allow "fire to be fought with fire."

- In contrast, Google is currently unencumbered by antitrust authorities (outside of the current review of DoubleClick) and Google is not regulated.

3. What it means that market forces cannot cure Google's market power?

What does it mean that:

- New and entrants small competitors can't compete with Google's barriers to entry?
- Google's primary competitors, Microsoft and Yahoo face network effects that they cannot overcome?
- Yahoo is very different than Google and those differences put Yahoo at a competitive disadvantage relative to Google?
- Microsoft is very different than Google and those differences put Microsoft at a competitive disadvantage relative to Google?

It means that Google:

- Has growing and enduring market power in the search segment;
- Is on path to monopolize the monetization of access to Internet content; and
- Is becoming the world's de facto info utility for accessing Internet content because Google has accumulated the world's:
  - Largest Internet audience for content;
  - Largest network/concentration of Internet content providers; and
  - Largest search infrastructure of instantaneous grid computing and info retrieval.
- Has already acquired the market power to harm consumers, advertisers, and content providers.

B. What barriers to entry make DoubleClick's ad-serving dominance enduring?

1. How does DoubleClick describe its own ad-serving leadership/dominance?

DoubleClick is a global market leader in digital technology and services for online advertising.

- DoubleClick has the dominant ad-serving platform with 60% share followed by 24/7 Real Media with 25% share and Atlas with 5% share, according to DoubleClick's competitors.
- "*With over 1500 clients, DoubleClick is the preferred partner of leading companies worldwide for a wide range of digital advertising solutions*" according to its website.

- Per EPIC's FTC filing, DoubleClick serves ads which reach an estimated 80-85% of all Internet users worldwide and serve ads to 17 of the top 20 most trafficked Internet websites.

DoubleClick is unabashed in touting its dominance in its market segment.

- The company recently re-branded as "*The nerve center of digital marketing*."
    - On the merger announcement conference call, DoubleClick highlighted its centrality in this market by explaining it has two types of clients, buyside and sellside, and that their business was split about 50-50 between the two.

- Its website states: "*Today, the company's DART and Performics divisions power the online marketplace.*"

- DoubleClick marketing materials:
    - Estimate DART for advertisers is responsible for serving over 60 billion ads a month or over 720 billion targeted online ads a year.
    - Also claim that DART for Advertisers is the most advanced ad management platform in the world and the most used.
    - Tout that its search service can pull keyword performance data from all the top search engines: Google, Yahoo, Microsoft/MSN and Ask.com among others.
    - Tout that its customer profiling service, Boomerang, "*as the most effective form of targeting available. It allows you to target the most desirable audience of all: browsers who have already shown an interest in your product or service*."

2. Why is DoubleClick's ad-serving dominance enduring?

DoubleClick has assembled a majority of the largest advertising clients in the world and has served them for years.

- This means that DoubleClick has deep and detailed account data histories with each of these clients.

- These large DoubleClick advertising clients are among the most sophisticated advertisers in the world in measuring targeted online advertising performance. They like to compare their current targeted campaigns with their previous ad campaign results to measure improvement and to further improve their targeted online advertising. They also like and need to compare different ad campaign histories and trends.

- **Switching costs**: Thus if you are a DoubleClick ad-serving client, you face a huge switching cost when switching to an ad-serving competitor like 24/7 Real Media or Atlas. If you leave DoubleClick, you don't have the ability to easily port and organize the performance and analytics of your ad campaign histories so you would basically have to start over partially blind to what you have learned in targeting efficiency in the past. In essence, **any large advertising client of DoubleClick's that values measurement is for all practical purposes "locked in" to DoubleClick because DoubleClick**

effectively controls the ability to compare current campaign performance with past campaigns.

3. What is DoubleClick currently doing which abuses its market power?

With a dominant 60% share of the ad-serving segment, competitors are already experiencing the anti-competitive effects of DoubleClick's exercise of market power. Because of the integrated nature of online ad campaigns and cross-platform performance and tracking, discrepancies can emerge over what advertising performance has been measured and thus what payment should be made. Competitors like 24/7 Real Media, Atlas and others will work together for a joint client to resolve payment measurement discrepancies which can happen naturally for a variety of legitimate reasons. DoubleClick refuses to cooperate to resolve measurement discrepancies and leverages these opportunities to tell customers the only way to get good industry data is to use DoubleClick's service since they have more than half of the data. In other words, DoubleClick is not so subtly saying that if a customer wants DART for Advertisers to work for the customer they also need to use DART for Publishers. This is a classic anti-competitive allegation of tying a dominant product to use of a non-dominant product or service.

IV. What are the anti-competitive effects of the merger?

A. Why does dominance of constituencies confer market power in ad functions?

The core of the anti-competitive effect of this merger is that it will combine the two dominant global leaders in all of Google's self-described "three primary constituencies" that make up the targeted online advertising market: users, advertisers, and content providers.

- For **users** (the Internet audience) the merger would combine:
  - Google's global ~650 million person audience of unique monthly visitors which Google claims is 77% of the Internet audience,
  - With DoubleClick's ~800 million viewers of served ads per EPIC's estimate that DoubleClick ads reach 80-85% of Internet users.
    - *Note:Per Nielsen/NetRatings, the leading proprietary websites: Yahoo, Microsoft/MSN, AOL and MySpace, each have only ~100 million unique user audiences, a small fraction of either Google or DoubleClick. 24/7 Real Media may reach a larger monthly audience than any of the proprietary sites, but less than half of DoubleClick's audience.*

- For **advertisers**, the merger would combine:
  - Google's estimated hundreds of major advertiser clients, and tens of thousands of "long tail small advertiser clients,
  - With DoubleClick's blue chip client base of 1500 of the largest global advertisers.
    - *Note: Google stated on the announcement call that the overlap of the two companies' advertising clients was "very high."*

- For **content providers** (websites) the merger would combine:
  - Google's million plus websites which comprise their global ad network,
  - With DoubleClick's hundreds of top websites, including 17 of the top 20.

Given that advertising is an intermediary market model where advertisers, not users, pay for the production of content, the **path to market power is through the "constituency troika" of users, advertisers and content providers**.

Dominance of all three primary intermediated constituencies confers market dominance in a variety of intermediary advertising functions:

- Search technology;

- Ad-serving technology;

- The business/monetization model for accessing Internet content;

- Advertising campaign performance measurement and analytic technologies;

- Consumer click behavior data and metadata collection and storage technologies; and

- Advertising exchange and ad brokering technologies.

B. How do network effects further enhance Google-DoubleClick's dominance?

Google's and DoubleClick's respective individual dominance would be further enhanced by the cross-network effect of each of the dominant intermediary functions discussed above. Specifically, the combination of Google and DoubleClick's individual market power creates a:

- **Search and ad-serving network effect**:
  - Google and DoubleClick could cross-leverage Google's knowledge of the search results that yield the highest click per action payments and DoubleClick's knowledge of which advertisers want to pay the most, and marry them to their potential self-dealing advantage as the market's intermediary without being subjected to market forces discipline.
  - These companies know *first* that display advertising is the best way increase brand awareness on the web, and *second* that increased brand awareness drives more cost-per-action clicks.
    - **By managing both the search and display ad algorithms, the merged companies would have the opportunity and incentive to collude to nearly perfectly target their display ads to optimize Google's click performance**.
  - The powerful network effect between the search performance model and display ads can create a **self-dealing "feedback loop" where they can secretly optimize the display algorithm to optimize Google's cost per action algorithm**.
    - This type of self-dealing arrangement would create a further disincentive to detect fraudulent clicks, an industry and Google problem that is far from being brought under control and that harms advertisers and users.
  - In effect, Google could preferentially target display ad inventory where Google knows it has the highest priced click per action rate, shortchanging both the advertiser with mis-targeted ads and the user with conflicted results that serve Google-DoubleClick more than the search user.

- **Monetization network effect**:
  - Since monetization is driven by both the volume and efficiency of matching advertisers with content and users, the combined volume of these two global leaders' user, advertiser and content provider bases, **creates a *monetization architecture* which no other targeted online advertiser could ever hope to match**.
  - With no realistic alternative monetization architecture, the merged companies could raise ad prices for advertisers and also increase prices for content providers by negotiating a better revenue sharing split from their Google ad network partners.

- **Click data & performance measurement network effect**:
  - By being able to combine the world's largest databases on consumer click behavior today and historically, **the merged company could bundle or tie the use of this consumer behavior metadata with the use of their performance measurement or analytics tools**.
  - **Google-DoubleClick could then deny competitors access to their dominant share of consumer behavior summary metadata necessary to manage large global online advertising campaigns,** thus ensuring that competitors have an inferior view of the overall market and inferior performance measurement because of the inferiority of available data.
  - Google-DoubleClick could also bundle or tie DoubleClick's ad-serving for publishers with its ad-serving for advertising further disadvantaging competitors like 24/7 Real Media or Atlas.
  - Advertisers and content providers would both be vulnerable to higher prices for performance measurement tools and metadata because they would have no viable alternative competitive choice of which to avail themselves.

- **Advertising exchange/brokering network effect**:
  - The combination of the two dominant players in counterpart market segments, Google on the consumer demand/buy side through search dominance, and DoubleClick on the advertiser supply/sell side through ad-serving dominance, would enable the combined company to see most of both sides of the market.
  - **Their dominant view of overall market information would give the combined entity the capability and the incentive to manipulate the market to their de facto market making advantage**, fix prices for long tail advertisers and content providers, raise prices where competitors are weak, and predatorily price serially where competitors are strongest to foreclose competition long term.

The cumulative effect of all these network effects will be to create a de facto Internet monopoly or unregulated Internet utility -- for the monetization of access to Internet content.

V. What are the anti-competitive harms of the Google-DoubleClick merger?

A. What are the consumer harms?

Ultimately many tens of millions of **American consumers would be harmed** by facilitating an unregulated information access monopoly -- making consumers more vulnerable to: misrepresentation, conflicts, fraud, deceptive/unfair trade practices, and undisclosed invasion of privacy.

Consumers would go from a marketplace naturally structured to redound to their benefit, to a marketplace where the benefits of new efficiencies would be increasingly captured by the market power of Google-DoubleClick.

Nothing in the marketplace is really "free." Google and DoubleClick users "pay" an intangible price for Internet content in the distraction and time delay of advertising interfering with the content they seek. The market power would enable the company to increase the amount of screen real estate devoted to ads at the expense of the content. It also could raise intangible prices in the form of increased time cost waiting for video ads to play before getting the desired content.

The intangible "price" of search could also go up when users search for information not available on other search engines. In those instances, the company would know there was no other option for quickly accessing that content and they could insert longer preview video ads before serving that content.

B. What are the advertiser harms?

Thousands of **advertisers would be harmed** by higher online ad prices, less real choice, and impaired market discipline to prevent, investigate and rectify click fraud.

Advertisers, especially those at the ends of market, the largest and smallest, would be most vulnerable to price increases. Competitors wouldn't be able to offer smaller advertisers the same Internet audience reach enabling the company to raise prices. Competitors wouldn't be able to meet scale, scope and bundled tools that the company provides enabling the company to raise prices.

Advertisers also would be harmed by impaired market discipline to prevent self-dealing and front-running on their information.

C. What are the content provider harms?

Hundreds of **content providers would be harmed** by higher prices (i.e. lower revenue ad splits) and less real choice for monetization of their digital content via the Internet.

The reality is that Google now has precious little competition in the middle and long tail markets; Google is really the only game in town. **This merger would foreclose a company from being able to enter this highly lucrative market in the future.**

VI. Conclusion

The facts and evidence in this paper show Google understands what is necessary to lead and further dominate the Internet:

- Accumulating the most digital information to search;

- Building the best parallel processing grid for finding cached information instantaneously;

- Aggregating the largest:
  - Audience of users;
  - Client base of advertisers;
  - Network of content providers;

- Archiving the most consumer behavior (click) information;

- Creating the best performance measurement and analytic tools of consumer online information;

- Devising the optimal business model/algorithm for maximizing desired sales actions;

- Bundling its search engine with its consumer metadata, with its measurement/analytic tools with its text ad-serving, with the video streaming of YouTube -- to create network effects; and

- Acquiring major new first-mover formats like YouTube-video streaming, DoubleClick-ad-serving, and Feedburner-blogging to extend their market power to emerging formats to fuel growth and foreclose competition.

Google has built the dominant global architecture for monetizing the access of Internet content through search text ads, and it is seeking to extend that market power into the ad-serving technology platforms that it does not yet dominate, display, rich media, and blogging -- through the acquisitions of DoubleClick and Feedburner.

The facts and evidence in this paper prove that the Google-DoubleClick merger:

- **Will substantially lessen competition** in the appropriate defined-relevant market: *targeted online advertising* – **warranting the FTC to file an injunction in Federal court to block the transaction; and**

- **Is a standard horizontal merger to monopoly** of competitive technology platforms in the targeted online advertising market, not a vertical merger of separate search and display markets, nor an inconsequential merger in the broader $300 billion advertising market including TV, radio, newspapers, etc.

The market power created by the Google-DoubleClick merger would lessen competition and harm consumers, advertisers, and content providers specifically by:

- Enabling Google-DoubleClick to effectively dominate:
  - Online ad-serving to websites;
  - The monetization model for accessing Internet content; and

- Providing Google-DoubleClick greater opportunity to collude to manipulate the targeted online advertising market, raise prices, fix prices, and price predatorily.

The facts and evidence prove consumer, advertiser, and content provider harm:

- Tens of millions of **consumers would be harmed** by facilitating an unregulated information access monopoly, making consumers more vulnerable to: misrepresentation, conflicts, fraud, deceptive/unfair trade practices, and clandestine invasion of privacy.

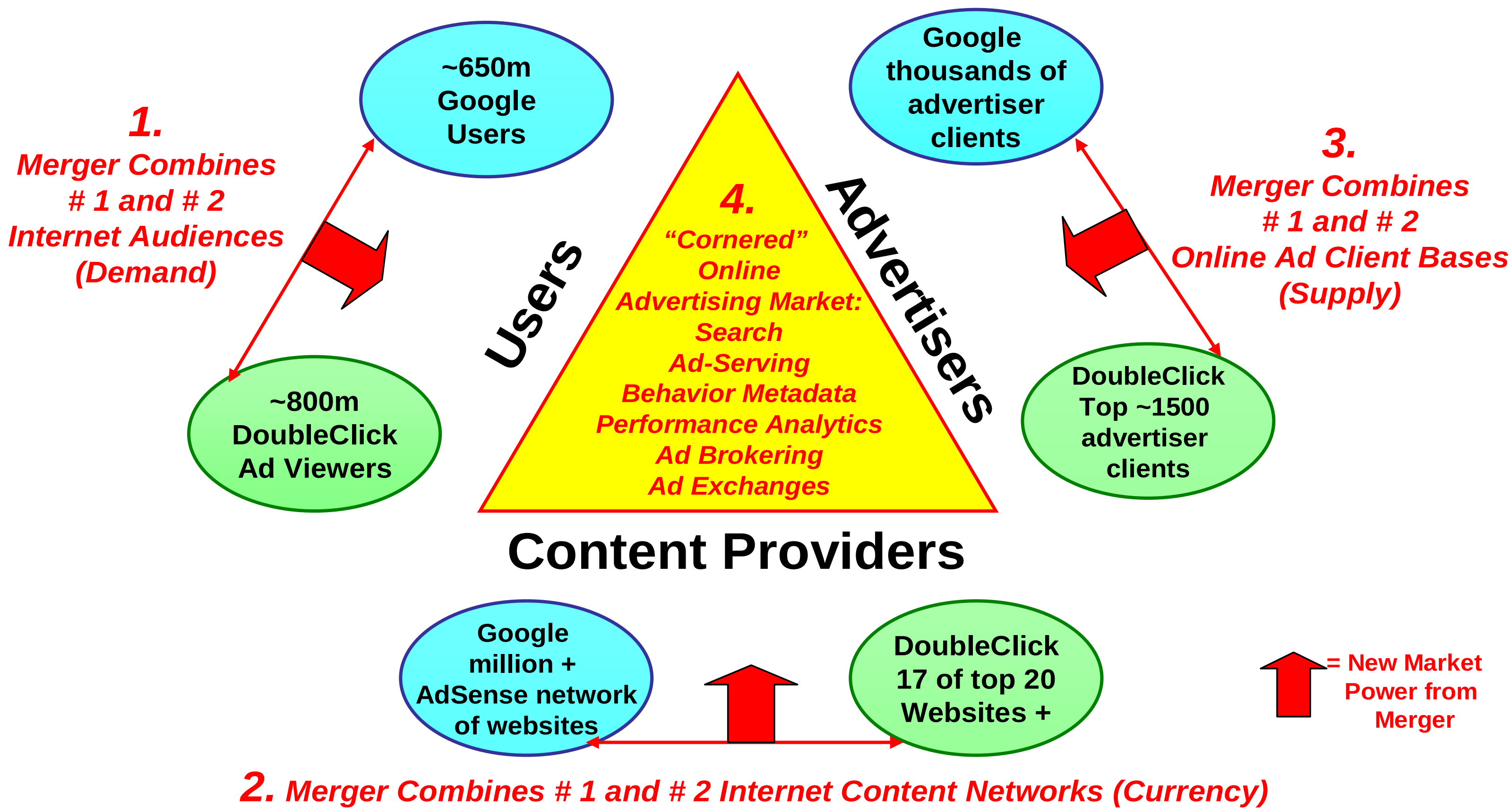
- Thousands of **advertisers would be harmed** by higher online ad prices, less real choice, and impaired market forces to prevent, investigate and rectify click fraud.

- Hundreds of **content providers would be harmed** by higher prices (i.e. lower revenue ad splits) and less real choice for monetization of their digital content via the Internet.

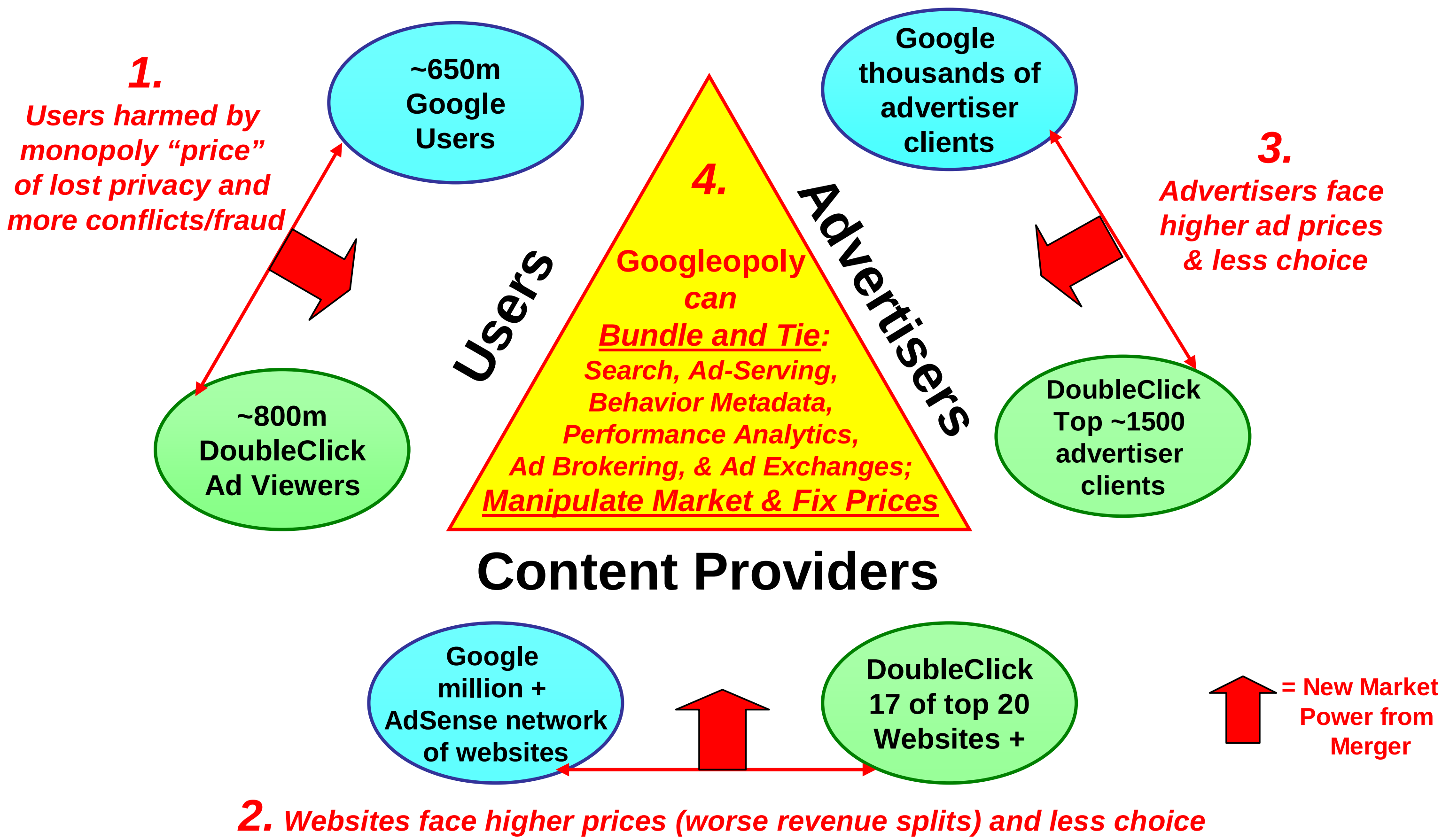
Appendices:

Chart:	How Google-DoubleClick Merger “Corners” the Online Advertising Market
Chart	Google-DoubleClick Anti-Competitive Harms & Effects
Bio	Scott Cleland

How a Google-DoubleClick Merger "Corners" the Online Advertising Market



Google-DoubleClick
Anti-Competitive Harms & Effects



Bio

Scott Cleland
Founder & President, Precursor® LLC
Chairman, Netcompetition.org

Scott Cleland is one of nation's foremost techcom analysts and experts *at the nexus of*: capital markets, public policy and techcom industry change. He is Founder and President of Precursor® LLC, an industry research and consulting firm specializing in the converging techcom sector, whose mission is to help companies anticipate change for competitive advantage. He is also Chairman of Netcompetition.org, a wholly-owned subsidiary of Precursor LLC and an e-forum on Net Neutrality funded by broadband telecom, cable, and wireless companies. He is widely-respected in industry, government, media and capital markets as a forward thinker, free market proponent, and leading authority on the future of communications.

I. Capital Markets Expertise: Scott Cleland has testified before three different Congressional Subcommittees on different forward-looking capital markets issues. He was the first expert witness to testify before Congress analyzing Enron's collapse. He also testified on both conflicts of interest and accounting tricks that contributed to telecom bankruptcies and fraud during the market bubble. *Fortune Magazine* profiled Cleland as "ahead of the pack in raising questions about WorldCom's debt, profitability, and survival." Then-WorldCom CEO Bernie Ebbers tried to discredit Cleland's prescient and hard-hitting research on WorldCom by deriding him as the "idiot Washington analyst." Cleland also served as the lead source and primary analyst for Hedrick Smith's Emmy Award winning *PBS Frontline Special, "The Wall Street Fix."*

- Scott Cleland has extensive professional and entrepreneurial experience in capital markets. He founded and built the Precursor Group Broker Dealer from scratch to the #1 *Institutional Investor*-recognized independent research firm in communications in four years. The Precursor Group Inc. served most of the top investment institutions in the U.S, including 39 of the top 50. Overall, he has 13 years experience in the institutional investment business including working for Legg Mason and the Schwab Washington Research Group.

- In 2002, Cleland conceived and was the Founding Chairman of the Investorside Research Association, the first and only trade association of independent research firms, which has over 70 members. He also was Investorside's point person with the industry, SEC, Congress and the Administration on regulatory and legislative matters relating to soft dollars. In 2002, *Institutional Investor Magazine* called Cleland "the de facto spokesperson for the independent research community."

II. Public Policy Expertise: Cleland has testified before Congress several times on the 1996 Telecom Act and competition issues. He is widely respected in Washington as one of the foremost analysts and observers of the Federal Communications Commission and regulatory policy. Cleland is also a Member of the United States Department of State, Advisory Committee on International Communications and Information Policy.

- Cleland has extensive public policy experience in and out of government. He served President George H.W. Bush as a Deputy Assistant Secretary of State for telecom trade matters, and served as a Senior Policy Advisor for Legislative Affairs to then Secretary of State James A. Baker III. Cleland received the Superior Honor Award for his role as the lead congressional briefer to Secretary Baker on all foreign policy matters during the first Gulf War and the dissolution of the former Soviet Union.

- In addition, he has Federal government experience as Director of Legislative Affairs for the U.S. Department of the Treasury and as a Budget Examiner for OMB in the U.S. Executive Office of the President.

- Cleland has a Masters of Public Affairs from the LBJ School of Public Affairs at the University of Texas at Austin and a BA in Political Science from Kalamazoo College.

III. Techcom Industry Change Expertise: Cleland also has testified several times before Congress on forward-looking industry issues, such as the impact of the AT&T-SBC and Verizon-MCI mergers, the Echostar-DirecTV merger and the future of cable competition. In 2004 and 2005, Cleland was voted #1 independent researcher in communications *Institutional Investor Magazine*. In addition, Cleland has been interviewed three different years by *Barrons Magazine* on the future of the telecom industry.

Cleland has a high-profile track record of foreseeing change before others do. He was the *first* researcher to publicly predict a wide variety of industry developments accurately including that:

- local franchising would slow Bell video entry;
- UNE-P price regulation would not be ruled legal;
- the decline and ultimate bankruptcy of Worldcom;
- the "Datatopia" burst of the fiber bubble from hyped data traffic growth;
- Department of Justice's blocking of the Worldcom-Sprint merger;
- the failure of the regulatory-dependent CLEC model;
- the importance of the techcom growth dynamic;
- the Sprint local spin-off leading to a new cable alliance;
- the new viability of Broadband over Power-lines (BPL);
- the Telecom Act would lead to Bell consolidation and a radio industry rollup, and
- originally that the 1996 Telecom Act would pass.