

Testimony of

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## STATEMENT OF

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AN EXAMINATION OF THE GOOGLE-DOUBLECLICK MERGER AND THE ONLINE ADVERTISING INDUSTRY:  
WHAT ARE THE RISKS FOR COMPETITION AND PRIVACY

BEFORE THE  
SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY  
AND CONSUMER RIGHTS  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE

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Chairman Kohl, Ranking Member Hatch and members of the Subcommittee. Thank you for the opportunity to present my views on the important competition and privacy issues raised by the Google-DoubleClick merger. Although I haven't done the detailed economic analysis that is typically part of a merger review, I do not believe that this acquisition threatens to be anticompetitive or harmful to consumers' privacy. I do think, however, that government interference with this evolving market, which is still in its infancy, could be quite harmful to consumers.

Google's purchase of DoubleClick is part of a spate of recent activity in the online advertising world. In the last few months, the three most prominent players in Internet advertising have each announced major acquisitions: Google-DoubleClick, Microsoft-aQuantive, and Yahoo-Right Media. All of these companies are adding new capabilities in order to better serve their customers and compete with each other.

The Google deal has stirred the most controversy and is currently being scrutinized by the FTC. The FTC is doing a careful merger review, as it should, but these reviews are much more difficult when the markets are changing rapidly, as they clearly are here. The Microsoft and Yahoo acquisitions are signals, if any were needed, that these companies intend to compete vigorously. Internet advertising is growing rapidly--up 38 percent globally in the last year. New organized exchange markets for online ads are just starting to be developed. And, with the convergence of media (including television and the Internet), the online advertising market will expand further.

All this goes to illustrate a very important point: The digital revolution is not just a technological revolution. It is also a revolution in the design of business models and the evolution of markets. Firms in the IT sector are continuously experimenting, and markets are responding to the new economic imperatives. In general, we want markets, not the government, to determine winners and losers in the race to develop successful business models, and that obviously should also apply to online advertising.

In many ways, Google epitomizes the digital revolution, and the wealth of information it has brought to our fingertips was unimaginable to most of us just a few years ago. Google's business model was also difficult to envision just a few years ago. Policymaking in the face of this rapid change is extremely risky, because when technologies and markets are changing rapidly, it is much more difficult to avoid policy mistakes. We want to do everything possible to create an environment in which the Googles of the future can emerge and thrive.

We also want to create the right environment to foster the DoubleClicks of tomorrow. For many entrepreneurial ventures in the IT sector and elsewhere, acquisition by another company is a major way to generate capital and pay off early investors. The most likely acquirers are larger firms in the same or related sectors. It will not go unnoticed by early investors if antitrust enforcement makes it more difficult for the ventures in which they invest to be acquired. Such a policy would raise the hurdle for investment in these firms, with potentially adverse effects on innovation in this critical sector of our economy.

Those who have urged the FTC to investigate the Google acquisition make two arguments, both of which are flawed.

The first argument is a standard antitrust claim--that both Google and DoubleClick have a large share of the activities they undertake, so a merger would create problems. But the flaw in this argument is that these firms are engaged in different activities. Google sells text ads mainly on their own websites and search result screens. DoubleClick sells the technology that delivers display ads from advertisers to websites and evaluates the effectiveness of the ads. DoubleClick does not sell advertising space or control any websites. Thus, even if we believe that Internet advertising is a market (which itself is highly debatable, since even with its growth it still comprises only about 5 percent of all advertising) the firms will not gain any market power from this merger since they do not have any business in common. The notion that this is a merger between direct competitors because they are both involved in online advertising is just not correct.

The second argument concerns privacy. Privacy advocates led by the Electronic Privacy Information Center (EPIC) have filed a complaint with the FTC asking them to investigate how Google manages personal information and block the acquisition unless the parties adopt a number of new information practices. The complaint alleges that "the increasing collection of personal information of Internet users by Internet advertisers poses far-reaching privacy concerns," and that Google's and DoubleClick's conduct "has injured consumers throughout the United States by invading their privacy." The complaint does not provide any evidence for these assertions.

Data on individuals were used by marketers and advertisers long before the Internet. The great appeal of the Internet as an advertising medium is the ability to target ads to consumers much more precisely than can be done through other media. Targeted advertising on the Internet is based on developing an understanding of consumers' interests, and then matching and delivering relevant advertisements. Using information from a variety of sources, including sometimes the past history of Internet browsing, Internet advertisers can deliver ads to consumers that are most useful to them, and avoid delivering those that are of no interest. This reduces "spam" and other unwanted advertising messages. Both consumers and advertisers benefit from better targeting of advertising messages, which is made possible by the use of personal information. More information can facilitate more precise targeting. All of this serves consumers well.

Online advertising revenues provide additional benefits. They support a variety of valuable services that are provided to consumers at no charge by many companies, including the companies represented here, such as search services, free Internet access and e-mail, and content customized to contain information of interest to the particular individual. Internet advertising firms also provide customized advertising to smaller Websites that use the revenues to support themselves.

It is also important to note that information used for Internet advertising generally is used anonymously. We tend to think that if something is "known," then it is known by a person, but most of the information used in Internet marketing is known only to computers. These computers do not start with a specific individual and try to find out what we know about that individual. Rather, they start by asking, for example, "Which IP numbers (Internet addresses) are likely to be associated with someone interested in a new car?," and then contract to put an ad on a million pages viewed by such consumers. No one knows or cares whose computer is targeted.

Proposals to regulate in the name of privacy, which typically involve limiting the collection or use of personal information for commercial purposes, should be subject to the same scrutiny as other regulatory proposals. Policy makers should ask:

- ? Are there failures in the market for personal information?
- ? If market failures exist, how do they adversely affect consumers?
- ? Can such failures be remedied by government action?
- ? Will the benefits of government regulation exceed the costs?

Contrary to the assertions in the EPIC complaint, there is no evidence of market failure or harm to consumers from the legal use of personal information in online advertising, or that restricting that use would be net beneficial for consumers. As I indicated, the evidence is that the use of personal information by online advertisers produces substantial consumer benefits.

Antitrust and privacy are separate issues and have become conflated partly because the FTC, the agency reviewing the merger, also has jurisdiction over privacy enforcement. Some people also have tried to connect the issues by arguing that the aggregation of data serves as a barrier to entry. Why? Apparently, because the aggregation of data would enable Google to provide a better service and do so more efficiently and, therefore, would be difficult to compete against. We need to approach such arguments with great caution, because they go to the heart of what we want our competitive economy to do--provide consumers with better goods and services at lower cost.

Scott Cleland makes this type of argument in his paper in the section on barriers to entry. For example, at various points he notes that: "Google has a set of search methods, which are far ahead of the academic research"; that it "has a market-leading team of engineers continually tweaking and improving their search engine to stay ahead of the competition"; and that it has "superior search expertise [that] provide[s] vastly more and better information to make [ ] searches more relevant/personalized/targeted, [which] is the key to maximizing the monetization of targeted online advertising." But these are all good things for consumers, not things we want to discourage.

The worst thing antitrust enforcers or any other policymakers could do is implement policies that prevent companies from getting too good at what they do, because it makes it harder to compete against them. That might be helpful to some competitors, but the goal of the antitru