Summary Testimony of Scott Cleland, President, Precursor® LLC
"The Evolving Competition Digital Dichotomy & Why Googleopoly is the Main Antitrust Event"
Before House Judiciary Competition Subcommittee Hearing on
"*Competition in the Evolving Digital Marketplace*" September 16, 2010

Precursor LLC is an industry research and consulting firm specializing in the future of the converging techcom industry. For the last four years, I have also been Chairman of NetCompetition.org, a pro-competition e-forum funded by broadband companies. In addition, I have done consulting for Microsoft. **My testimony today reflects my own personal views and not the views of any of my clients.**

The Digital Dichotomy: In evaluating competition in the evolving digital marketplace, the first order insight is to understand the "competition digital dichotomy" – that competition is very different in the *physical* world of networks and devices than in the *online/virtual* world of information and applications. **The critical and defining difference** is that over the last fifteen years the evolution of competition in the *physical* world of networks and devices has steadily evolved from monopoly toward competition, while the evolution of competition in the *online/virtual* world of information and applications has steadily devolved from competition toward monopoly. Simply, the online/virtual is powerfully different than the physical world. The online/virtual world is characterized by a "winner-take-all" dynamic. Ironically, the Internet's greatest strength, its universality, is also its greatest weakness – **its natural propensity to extreme centralization, concentration, and monopoly power**.

The Main Antitrust Event – Googleopoly: Attached Googleopoly 41-page pictorial study concludes:
1. Lax antitrust enforcement tipped Google to monopoly; & facilitates Internet media monopolization.
2. Google's monopoly platform increasingly is dominating the consumer Internet media ecosystem.
3. More is at stake than competition from an information access bottleneck; **Googleopoly threatens economic growth, jobs, privacy, intel. property, a free press, fair elections, & cyber-security.**
4. Only Google has a billion user audience, ~all information/advertisers/publishers, & a free-info business model that can sustain pervasive predatory free info/products/services long term. **There's no net-economic-growth or net-job-creation in a "free" Internet sector model -- only: a deflationary price spiral; net negative growth, property devaluation, job losses, and monopolization**. **Over 20 industries, 200+ US/EU companies, & hundreds of thousands of jobs are at risk from Googleopoly's price deflationary spiral.**
5. The consumer does not win long-term from monopoly-control over free info access & distribution.
6. Google is a vastly more serious antitrust threat to consumers and the economy than Microsoft was.
7. Lax antitrust enforcement created a dominant Google TV global "**monocaster**" platform for all types of IP devices with 80% of audience; only Google TV has **no media concentration limits**.
8. Google has systematically assembled all the building blocks in the "*stack*" of necessary capabilities to become the dominant platform of the consumer Internet media ecosystem.
9. Google has unique **"Total Information Awareness Power"** where it tracks ~all Internet activity.
10. Google's monopoly power is lasting because of **re-enforcing spheres of monopoly influence.**
11. Google's secret weapon is **"deep tracking inspection"** of everything in the Google cloud.
12. Google is **not an honest broker** in search; it hides multiple serious conflicts-of-interest.

Conclusion: **Don't ignore the blue whale in the antitrust room – Googleopoly. I recommend the Subcommittee urge the DOJ Antitrust Division to enforce the law and sue Google Inc. for monopolization of consumer Internet media -- under Section 2 of the Sherman Antitrust Act.** Let the rule of law work; prosecute and have the courts determine the facts and judge if Google is indeed monopolizing markets.

Written Testimony of
Scott Cleland
President, Precursor® LLC

"The Evolving Competition Digital Dichotomy &
Why Googleopoly is the Main Antitrust Event"

Before the
House Judiciary Subcommittee On Courts & Competition Policy

Hearing on:
"*Competition in the Evolving Digital Marketplace*"

September 16, 2010

I. Introduction

Mr. Chairman and Members of the Subcommittee thank you for the honor of testifying on the important subject of: "*Competition and the Evolving Digital Marketplace*" I am Scott Cleland, President of Precursor LLC, an industry research and consulting firm, specializing in the future of the converging techcom industry. For the last four years, I have also been Chairman of NetCompetition.org, a pro-competition e-forum funded by telecom, cable and wireless broadband companies. In addition, I have done consulting for Microsoft. **My testimony today reflects my own personal views and not the views of my clients.**

My purpose today is to help the Subcommittee see the proverbial forest for the trees. In other words, I hope to help distinguish the most important and serious system-wide competition problems in the evolving digital marketplace, from the less serious or not serious competition problems that may be garnering the attention of the subcommittee.

The outline of my testimony is as follows:

I. Introduction
II. The Competition Digital Dichotomy
III. Googleopoly – The Main Antitrust Event
IV. Conclusion
V. Appendix: Bio & Googleopoly VI

II. The Competition Digital Dichotomy

In evaluating competition in the evolving digital marketplace, the first order insight is to understand the competition digital dichotomy – that competition is very different in the *physical* world of networks and devices than in the *online/virtual* world of information and applications. **The critical and defining difference** is that over the last fifteen years the evolution of competition in the *physical* world of networks and devices has steadily evolved from monopoly toward competition, while the evolution of competition in the *online/virtual* world of information and applications has steadily devolved from competition toward monopoly.

The competitive trend in the *physical* communications world, which originated in the change in law and policy in the 1996 Telecom Act, was fundamentally anti-monopoly, pro-competition and pro-antitrust.

- *Wireline:* The wise removal of government prohibitions of communications competition has resulted in the U.S. having the most competitive facilities-based broadband market in the world and the most competitive wireless handset market in the world. No other country in the world has a second national broadband infrastructure that reaches 95% of households – cable. As a result, the rest of the world does not enjoy the consumer and investment benefits of real national-scale wireline broadband facilities-based competition. De-competition advocates who yearn for the 1934-era central planning powers afforded by monopoly regulatory policies, derisively and wrongly frame America's unique real facilities-based competition, as a "duopoly" glass-half-empty situation, when the rest of the world has a glass-half-full envy of America's real facilities competition that has fueled hundreds of billions of private broadband investment and spurred broad innovation.
- *Wireless:* De-competition advocates also try and frame the U.S. wireless market, the most competitive in the world by most every measure (choice, price, concentration, innovation, etc.), as somehow not competitive "enough," so again they can impose their 1934-era centrally-planned regulatory policies. The billions spent annually on wireless advertising

is a daily testament to the fierce competitiveness of the American wireless market where consumers have their choice of at least four full service national wireless providers and more handset choice (over 600 handsets) than any nation in the world. Moreover, Clearwire is on path to be a fifth nationwide wireless competitor using WiMax technology and the FCC is poised to approve yet another form of wireless competition leveraging unlicensed "white spaces" broadcast spectrum.

- *Software:* The analogous situation in the *physical* technology world to the 1996 Telecom Act, was Microsoft's monopoly of the PC operating system market and the DOJ's antitrust enforcement action that also allowed the Internet to emerge competitively. Like the 1996 Telecom Act, the 1990's Microsoft antitrust case was anti-monopoly, pro-competition and pro-antitrust.

In stark contrast to the *physical* network/device dynamic of moving from monopoly toward competition, the competitive dynamic in the *online/virtual* world has been the opposite, starting with wide open competition and moving towards monopoly in an environment of and lax antitrust enforcement.

Consider the well-known evidence of this competition toward dominance/monopoly trend:

- Google's dominance of search;
- Google-YouTube's dominance of video streaming;
- Google-DoubleClick's dominance in ad-serving and analytics;
- eBay's dominance of online auctions and epayments;
- Amazon's dominance in e-retailing;
- Facebook's dominance of social networking;
- Skype's dominance of global VoIP calling and video-calling; and
- Twitter's dominance of real time infocasting.

Why does this competition digital dichotomy exist? The reason for this digital dichotomy is more than their starting points of a monopoly origin versus a competitive origin. Simply, the online/virtual world is powerfully different than the physical world. The online/virtual world is characterized by a "winner take all" dynamic. Why is that?

- First, the Internet, by definition, is standardized around Internet protocol. What makes the Internet unique is that it is the most standardized and internationally harmonized technical foundation for communication and commerce -- ever. This near perfect standardization creates unique global universality. Ironically, the Internet's greatest strength, its universality, is also its greatest weakness – **its natural propensity to extreme centralization, concentration, and monopoly power**.
- Second, the online/virtual dimension of the Internet is vastly different than the physical infrastructure and devices that enable it, because the online world generally does not have the friction and inefficiency of governmental borders/sovereignty or the substantial distribution costs/delays that the physical world must overcome. This inherent boundary-less-ness of the Internet allows it to achieve greater and faster economies of scale, scope and reach than any entity ever could hope to achieve in the physical world. These vastly greater virtual economies of scale, scope and reach dwarf potential physical economies, which means that after fixed costs are covered, going-forward incremental costs can be near zero.
- Third, it is also vastly different in that the Internet has exponentially greater *network effects* or inherent the strong-get-stronger perpetual feedback loops, that are powered by Metcalfe's Law where the value of a network is the square of its nodes.
- Fourth, first movers often can develop insurmountable switching costs and user stickiness because of the Internet's unique attributes. The first "free" offering in a segment seizes the monopoly advantage of eliminating the central mechanism of a competitive market – the potential for price competition. In order for a "free" offering to ultimately be commercially viable and sustainable, it must win the race to lock up a dominant share of the user audience for that application. Purveyors of the first-mover "free" model know that they must thwart the possibility of a viable competitor by creating as many switching costs and user stickiness as possible through cookies, passwords, storage, and as many integrated/bundled features, products and services as possible.
- Fifth, there is the "Internet Choice Paradox," a concept I introduced in 2007 Senate antitrust testimony on the Google-DoubleClick acquisition. The "Internet Choice Paradox" is the counter-intuitive reality in a "free" Internet sector model; competition is not "one click away," because advertisers not consumers pay for availability and use of

"free" content. That means there is very limited choice for web publishers and advertisers -- the ones that really pay for the "free" content -- to reach users with their info or ads.

- Counter-intuitively, the Internet is inherently a monopolizing technology.

Now that we see the big picture that the *physical* world of networks and devices are trending imperfectly from monopoly toward competition and that the *online/virtual* world is trending imperfectly toward monopoly, **it is important to see the big picture and to focus on by far the most important and serious competition/antitrust problem in the digital marketplace today – Googleopoly – the "Antitrust Main Event."**

III. Googleopoly – The Main Antitrust Event

What follows is the Executive Summary of my just published study of Google's impact on competition, the economy, pricing, and jobs: "*Googleopoly VI -- Seeing the Big Picture: How Google is Monopolizing Consumer Internet Media and Threatening a Price Deflationary Spiral and Major Job Losses in a Trillion Dollar Sector.*"

A. Recommendation:

The facts and stakes warrant the U.S. DOJ filing a Sherman Section 2 Antitrust Case and the EU Filing a Section 102 Statement of Objections – against Google Inc. for monopolizing consumer Internet media services.

- Since Google increasingly is the Internet for info access and distribution, and also is increasingly monopolizing the consumer Internet media *ecosystem* with a systematic monopolization strategy, a broad antitrust case is warranted, because event-specific investigations/actions are a losing antitrust game of '*whack-a-mole*.'

B. High-Level Conclusions:

1. Lax antitrust enforcement tipped Google to monopoly and facilitates monopolization of consumer Internet media.
2. Google's monopoly platform increasingly is supplanting and dominating the consumer Internet media ecosystem.
3. There is more at stake than competition from a global information access bottleneck; **Googleopoly threatens economic growth, jobs, privacy, intel. property, a free press, fair elections, cyber-security, & sovereignty**.
4. Only Google has a billion user audience, ~all information/advertisers/publishers, & a free-info business model that can sustain pervasive predatory free info/products/services long term. **There's no net-economic-growth or net-job-creation in a "free" Internet sector model -- only: a deflationary price spiral; net negative growth, property devaluation, job losses, and monopolization**. **Over 20 industries, 200+ US/EU companies, and hundreds of thousands of jobs are at risk from Googleopoly's anti-competitive price deflationary spiral.**
5. The consumer does not win long-term from monopoly-control over "free" information access & distribution.

C. Additional Conclusions:

1. Google is a vastly more serious antitrust threat to consumers and the economy than Microsoft, because the DOJ blocked Microsoft from extending its monopoly vertically into the broader economy, while antitrust authorities have unwittingly aided and abetted Google's vertical monopolization of vast parts of the broader economy.
2. Lax antitrust enforcement allowed dominant Google search to acquire: YouTube's dominant video-streaming, DoubleClick's dominant display ad-serving/analytics, and AdMob's dominant mobile advertising -- to create a dominant Google TV global "**monocaster**" platform for all types of IP devices with 80% of the video streaming audience and dominance of IP video views/minutes viewed. Only Google TV has **no media concentration limits**.
3. The Internet's greatest strength is also its greatest weakness, in that the Internet's universality naturally leads to extreme centralization, concentration and market power. Thus **Google increasingly is the Internet** for most.

4. Google has systematically assembled all the building blocks in the "*stack*" of necessary capabilities to become the dominant platform of the consumer Internet media ecosystem: a winner-take-all dynamic; omniscient mission and omni-directional ambition; omnivorous info collection; Internet omnipresence; Internet-scalable infrastructure; omnifarious products, services & info types; Internet behavior omniscience; and omnivorous ecosystem share.
5. Google has unique **"Total Information Awareness Power"** where it collects, records, stores, and analyzes most all Internet activity: all the world's information and all market information of usage, traffic, supply and demand; and permission-less profiles of users': personal identifications, locations, intentions, and associations.
6. Google's monopoly power is lasting because of **re-enforcing spheres of monopoly influence --** a monopoly platform surrounded by: 75+ acquisitions; many satellite companies financially dependent on Google for search monetization; thousands of publisher revenue-share "partners;" and a phalanx of free info, products and services.
7. Google's secret weapon is its **"deep tracking inspection"** of everything that passes through Google's cloud, where "innovation without permission" means that Google has to ask no one for permission to use the derivative tracking metadata from anyone: publisher partners, advertiser clients, competitors, proprietary owners or users.
8. Google is **not an honest broker** in search; it hides multiple serious conflicts-of-interest.

D. Google's Monopolization Strategy

1. **Misrepresent conflicts-of-interest to build trust as an honest broker.**
   - Google built an ill-gotten critical mass of user trust through systematic misrepresentation of Google's real broker interests and by not publicly disclosing multiple serious conflicts-of-interest that would be considered fraudulent and deceptive if done in the off-line marketplace.

2. **Systematically foreclose competition.**
   - Google uses unique market-wide metadata information power to find and buy the most strategic first movers cheap before: a business model can form effectively; *revenue* hits the "hockey stick" growth inflection point; a market can be defined for

antitrust enforcement purposes; and others learn what Google knew from analyzing everyone else's proprietary metadata without permission.

- Google co-opts and subordinates actual and potential competitors by providing outsourced search, tracking/analytics, and advertising monetization through opaque and supra-competitive revenue-sharing arrangements that create business dependency on Google.
- Google forces the wholesale price for information access towards zero by copying all information without permission/compensation to make it accessible for free, then forcing an ad-monetization model so that information itself is not valuable, but only access to information & adding functionality to information.
- Google predatorily dumps monopoly-subsidized omnifarious products/services to eliminate competition.

3. **Structure opaque derivative markets so Google can be player, referee, scorekeeper & paymaster all at once.**
    - Google's "auctions" are not auctions between buyers and sellers where the highest price prevails; Google's auctions are a derivative algorithm that discriminates against bidders to award the ad, not to who bids the most, but to who Google *estimates* has the best probability of generating the most derivative ad clicks and hence revenue for Google. Google also unilaterally sets minimum bid prices.

4. **Exclude competitors from information critical to competition.**
    - Google owns and controls uniquely vast and critical datasets (YouTube, Books, Earth/Maps/StreetView, etc.) and makes them publicly accessible and useful to users, but excludes competitive crawling or indexing so competitors cannot offer competitive search results.
    - Google harvests and controls all the derivative "metadata" (data on the data) that the dominant Google Internet media platform produces, i.e. the how, what, where, when, why and how much of most Internet traffic, clicks and behavior, that Google uniquely records to allow Google to create unique derivative metadata profiles of individual users, groups, demographic slices, and the market overall.

5. **Discriminate predatorily against competitors and self-deal in favor of Google info, products and services.**
   - Google detects and impedes emerging search competitors from becoming more competitive by predatory monopoly discrimination using "human raters" to lower their search ranking and increase their price per click, so they have to pay more for less and can't compete; and
   - Google self-deals by using Google's unique knowledge of partners, competitors, and users' proprietary and private information to identify, own and then rank critical building block content first, above partners and competitors, so that competitors cannot succeed.

6. **Front-run partners and competitors by using their own confidential/proprietary information against them.**
   - Google tracks, records and analyzes most all behavior on the Internet, Google's "Total Information Awareness Power," so Google can effectively reverse-engineer the most valuable trade secrets and confidential information from partners and competitors, i.e. their confidential client lists (users, advertisers), *their actual measured* strengths and weaknesses, plans, strategies, and tactics.

VI. Conclusion:

One of the most difficult jobs this Subcommittee has is to sort through all the competition noise and zero in on the most important and serious antitrust problems facing the country, that if they are not addressed appropriately could be disastrous for the economy and the American people. A key takeaway for this subcommittee is that real and serious antitrust issues in the physical world of networks and devices inherently are slower paced and easier to detect -- so they are not going to sneak up and surprise the Subcommittee. In stark contrast, antitrust problems in the fast-paced and opaque online world can and have sneaked up on the Subcommittee in the case of Googleopoly.

While there may be many competition/antitrust issues put forth today for the Subcommittee's attention, don't be distracted and miss the Main Antitrust Event: Googleopoly. No other digital competition threat poses anywhere near the detrimental impact as Googleopoly does. **Googleopoly threatens: the economic recovery, job creation, privacy, jobs, intellectual property, a free press, fair elections, and cyber-security. Don't ignore the blue whale in the antitrust room – Googleopoly. I recommend the Subcommittee urge the DOJ Antitrust Division to enforce the law and sue Google Inc. for monopolization of consumer Internet media -- under Section 2 of the Sherman Antitrust Act.** Let the rule of law work and have the court determine the facts and judge if Google is indeed monopolizing markets.

Thank you again Mr. Chairman and Members of the Subcommittee for the opportunity to share my personal views and analysis on "*Competition in the Evolving Digital Marketplace*."

V. Appendix:

A. Bio

B. Googleopoly VI – How Googleopoly is Monopolizing Consumer Internet Media

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Bio:

Scott Cleland

President, Precursor® LLC

Chairman, NetCompetition®

Scott Cleland is a precursor, a prescient analyst with a long track record of industry firsts. Cleland is President of Precursor LLC, which consults for Fortune 500 clients; authors the "widely-read" PrecursorBlog.com; publishes GoogleMonitor.com and Googleopoly.net; and serves as Chairman of NetCompetition.org, a pro-competition e-forum supported by broadband interests. Nine different Congressional subcommittees have sought Cleland's expert testimony on a wide range of complex emerging issues related to competition; and *Institutional Investor* twice ranked him as the top independent telecom analyst in the U.S. Cleland has been profiled in *Fortune, National Journal, Barrons, WSJ's Smart Money, Investors Business Daily,* and *Washington Business Journal.*

Googleopoly VI* Seeing The Big Picture:

How Google is Monopolizing Consumer Internet Media & Threatening a Price Deflationary Spiral & Job Losses in a $Trillion Sector

Why the Facts and the Economic/Societal Stakes Warrant:

The U.S. DOJ Filing a Sherman Section 2 Antitrust Case &
The European Union Filing a Section 102 Statement of Objections

By **Scott Cleland****

President Precursor LLC

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www.Googleopoly.net & www.GoogleMonitor.com

September 13, 2010

**   See Appendix B for links to Googleopoly I-V research series.*
*** The views expressed in this presentation are solely the author's and not the views of any Precursor LLC clients.*
See Scott Cleland's full biography at: http://www.precursor.com/bio_long.htm

Outline

I. EXECUTIVE SUMMARY

Executive Summary: Recommendation & High-Level Conclusions

Recommendation:

- The facts and stakes warrant the U.S. DOJ filing a Sherman Section 2 Antitrust Case and the EU Filing a Section 102 Statement of Objections – against Google Inc. for monopolizing consumer Internet media services.
  - Since Google increasingly is the Internet for info access and distribution, and also is increasingly monopolizing the consumer Internet media *ecosystem* with a systematic monopolization strategy, a broad antitrust case is warranted, because event-specific investigations/actions are a losing antitrust game of '*whack-a-mole*.'

High-Level Conclusions:

- Lax antitrust enforcement tipped Google to monopoly & facilitates monopolization of consumer Internet media.
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Executive Summary: Additional Conclusions

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8. Google is **not an honest broker** in search; it hides multiple serious conflicts-of-interest.

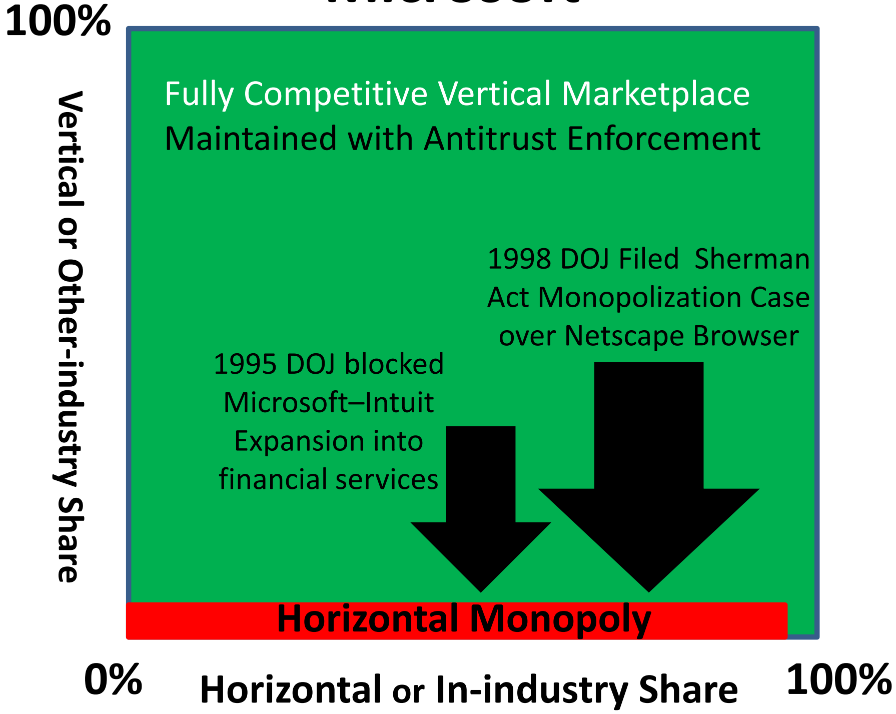
II. HOW LAX ANTITRUST ENFORCEMENT FACILITATED GOOGLEOPOLY

Why Google's a Greater Monopolization Threat Than Microsoft Was
Generally Lax Antitrust Enforcement

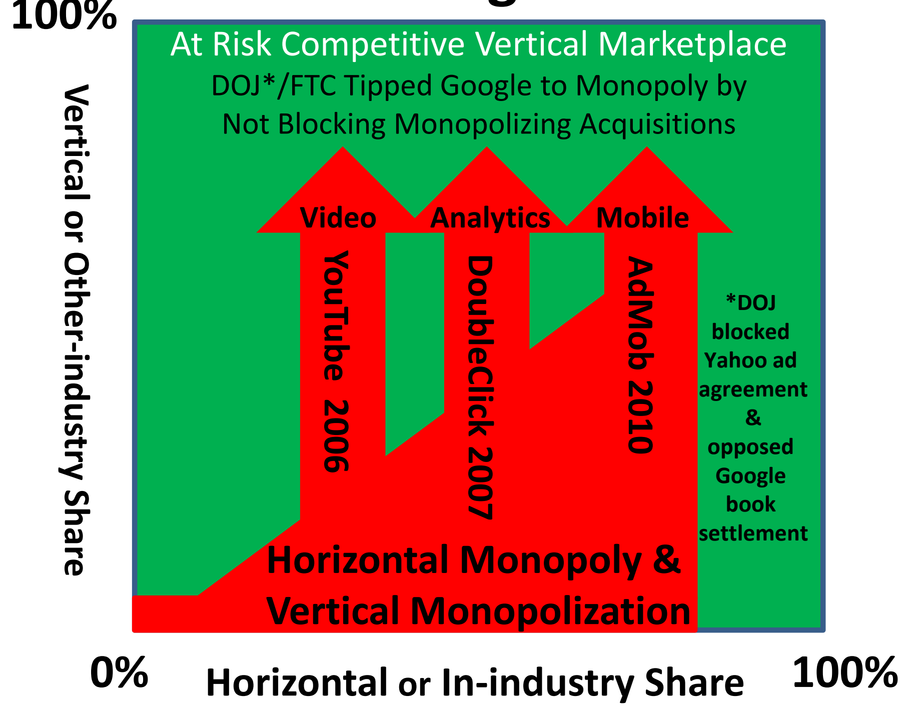
DOJ Prevented Vertical Extension of Microsoft's Monopoly by Blocking Intuit and Prosecuting on Netscape

DOJ*/FTC Tipped Google to Monopoly & Facilitated Vertical Monopolization in Approving YouTube, DoubleClick & AdMob

Microsoft



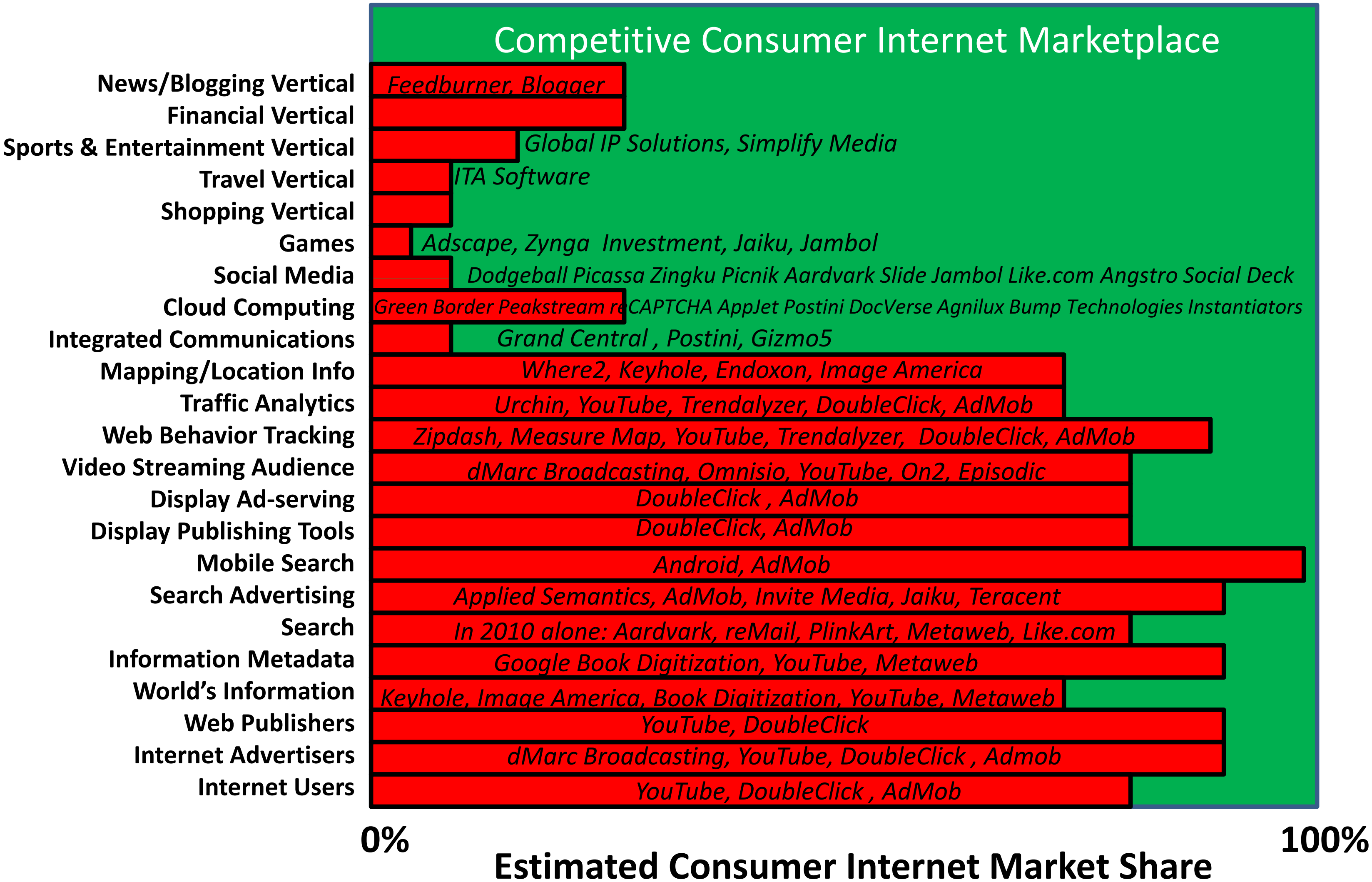
Google



How Google's Acquisitions Have Substantially Lessened Competition

Google's race to lock up market power before the lax antitrust enforcement window closes

Key Google Acquisitions in Italics; Googleopoly in Red; Competitive Consumer Internet in Green



Why Competition Isn't "*One Click Away*" Because of the "*Internet Choice Paradox*"

Advertisers not Consumers Pay for Internet Content

Consumers *are the Product* Advertisers & Publishers Essentially 'Buy' from Google

So Competition is Not "One Click Away" for Real Customers: Advertisers/Publishers

Consumer Info Choice is "one click away"

Free

Access

to reach

any content

of choice

Internet

Cloud of Content

GLOBAL Scale & Scope Efficiencies

Minimal Transactional Friction Costs

Advertiser/Publisher Customers Face Googleopoly & Have Little Choice To Reach Most Users Thus "Competition is NOT a Click Away" for the Real Paying Customers

"Advertising is the lifeblood of the digital economy." Google Blog 3-11-09

Costly

Access

to reach

the desired

users

Googleopoly Bottleneck*

Google largely controls access to consumers

**** Barriers to entry – costly/difficult to aggregate global segmented networks of:***

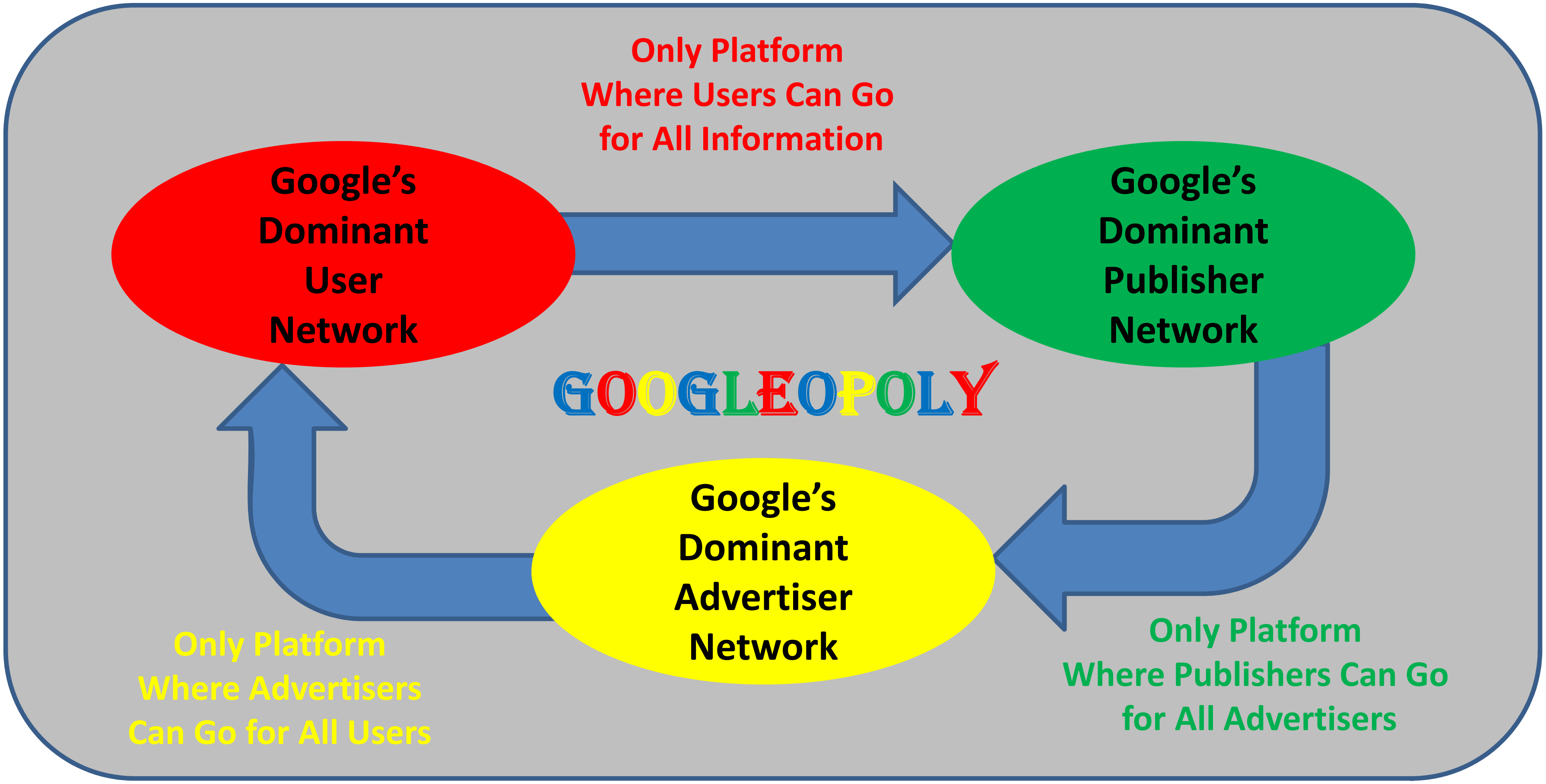
- ***Viewers***
- ***Advertisers***
- ***Websites***

"Network effects" reinforce dominance

How Googleopoly's Core Virtuous Circle & Perpetual Feedback Loop Works

The Most Important Network Effect Antitrust Enforcers Have Under-appreciated

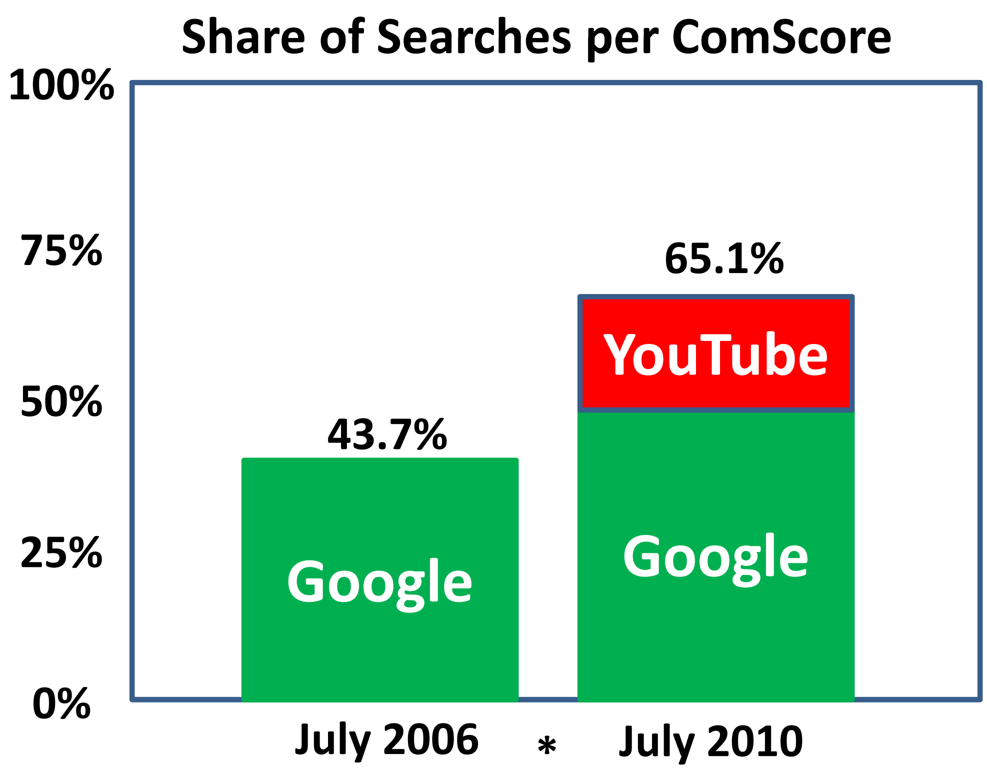
"So more users more information, more information more users, more advertisers more users, more users more advertisers, it's a beautiful thing, lather, rinse repeat, that's what I do for a living. So that's [what] someone alluded to – 'the engine that can't be stopped.'" Jonathan Rosenberg, Google Sr. VP 2-27-08



How YouTube Acquisition Helped Tip Google to Monopoly

~75% of Google's Search Market Share Gains 7-06 -- 7-10 Were YouTube

YouTube is now second largest generator of searches in the world & 25% of all Google searches



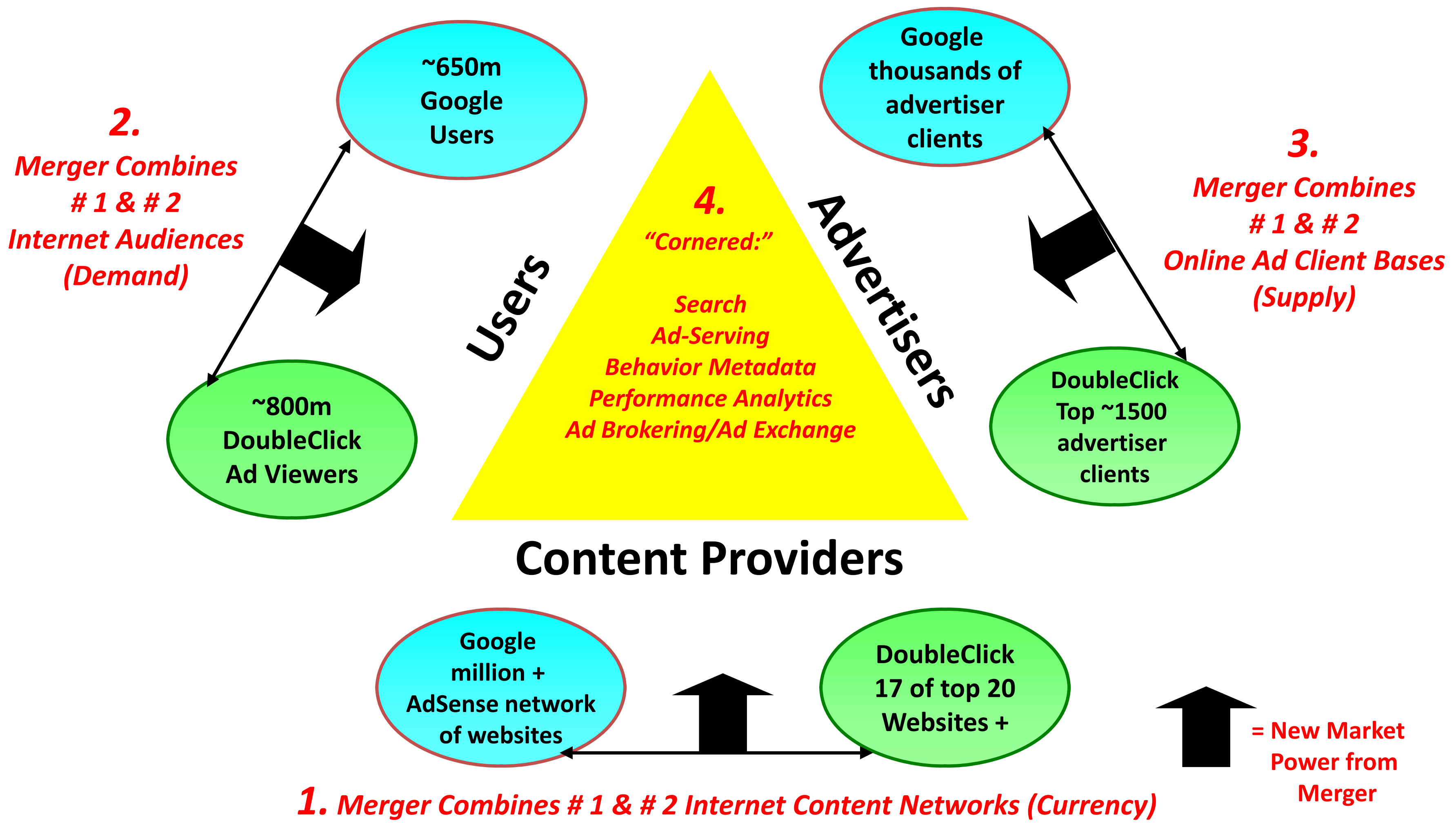
***Google Acquired YouTube 11-06**

(DOJ asked for no second request for information)

How DoubleClick Acquisition Tipped Google to Monopoly

Acquired Most All the Users, Advertisers & Publishers Google Didn't Have

4-1 FTC Approval Created Googleopoly Virtuous Circle & Perpetual Feedback Loop



How FTC Approval of AdMob Ceded Google a Mobile Ad Monopoly

Created a New Bottleneck For Advertisers/Publishers Entering In-App Mobile Advertising

PC-Advertiser/Publisher Entry into Mobile In-App Advertising

PC Ad Provision

EXTENSION

Mobile Ad Provision

Potential Competition

Yahoo (with 300k advertisers) & Microsoft (100k) are not material competitors in In-App Mobile Ad Market

Actual Competition

No actual competitor is estimated to have >~20,000 advertisers

Google

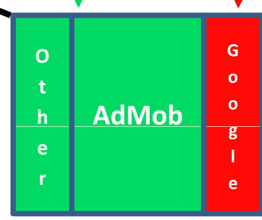
Google-DoubleClick-YouTube has **~1,500,000 advertisers**, (UBS/NYT), ~100 times more advertisers than any other actual in-app mobile provider. Google **unilaterally,** without customer permission, changed the ad defaults for all their advertising customers to opt-in for Google's mobile ad serving – thus leveraging its dominant search advertiser base and ad inventory in PC advertising into the in-app mobile advertising market. (Appitalism)

PC Advertising Publishing

ENTRY

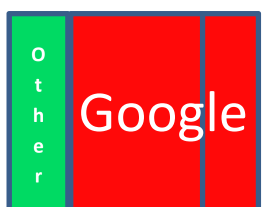
Mobile Advertising Publishing

No Merger



Market Share: **25%** **50%** **25%**

With Merger



No Bottleneck: Google & AdMob Competing

Google Competitors Have 75% Share of In-App Ads

AdMob has First-Mover Advantage & Best Offering

Bottleneck with Google-AdMob

Google Merges to 75% Monopoly Share of In-App Ads

Eliminates Largest & Only Major In-App Ad Competitor

Google already has >95% share of the mobile search market per Netmarketshare.com

Sources: Precursor LLC estimates; Googleopoly V; UBS; NYT; Appitalism; AdGooRoo.

What's One Result of Lax Antitrust Enforcement of Google?
Google TV: Global Internet Monocaster

Controlling access to most Internet users, publishers, & advertisers, is it surprising:
Google-YouTube owns ~80% of video streaming audience?
Google dominates online video sessions viewed & viewed minutes?

ComScore Video Metrix Chart – July 2010
Top U.S. Online Properties by Video Content Views Ranked by Unique Video Viewers

Property	Total Unique viewers (000)	% of Unique Viewers	Viewing Sessions (000)	% of Viewing Sessions	Minutes per Viewer	% of Viewed Minutes
Total Internet Audience	178,148		5,234,655		882	
1 Google Sites	**143,226**	**80.4%**	**1,884,498**	**36.0%**	**282.7**	**32.1%**
2 Yahoo Sites	55,107	30.9%	238,322	4.6%	28.6	3.2%
3 Facebook .com	46,571	26.1%	166,186	3.2%	18.3	2.1%
4 Microsoft Sites	45,558	25.6%	219,149	4.2%	40.2	4.6%
5 VEVO	43,911	24.6%	202,091	3.9%	68.5	7.8%
6 Fox Interactive Media	38,136	21.4%	164,760	3.1%	27.2	3.1%
7 Turner Network	33,442	18.8%	107,793	2.1%	25.3	2.9%
8 Viacom Digital	30,715	17.2%	70,617	1.3%	44.8	5.1%
9 Disney Online	28,475	16.0%	64,104	1.2%	6	0.7%
10 Hulu	28,455	16.0%	153,845	2.9%	158	17.9%

How Did Lax Antitrust Enforcement Create a Monocaster?

Add search dominance with acquisitions dominant in video, display, & mobile!

"YouTube is a big component of our display revenue, and display is our next big business." Google CEO Schmidt NYT 9-3-10

"Ultimately our goal at Google is to have the strongest advertising network and all the world's information." Google CEO Schmidt 8-23-06

World Monocaster Media Concentration Equation	Google's Extreme Global Vertical Media Concentration
Google Search Advertising Dominance	Dominant ~Remote Control, ~TV Guide, User Audience: 620m daily , Advertiser Network, Web Publisher Network
+ **YouTube** Video Streaming Dominance	Dominant Online Video Audience, Software, Operating System, Internet Video-casting Infrastructure
+ **DoubleClick** Display ad-Serving/Analytics Dominance	Dominant Ad-Serving Software, Display Analytics, & Neilsen-like Tracking & Viewing Measurement
+ **AdMob** Mobile Advertising Dominance	Dominant Mobile in-app Ad-Serving Software Combined with Free Android Fastest Growing Mobile Operating System
= **Google TV Network Dominance To All Types of IP Devices**	80% of video-streaming audience 2 billion monetized views daily 160m daily mobile streamed views 45 billion ads served daily 94 of top 100 Ad Age Advertisers

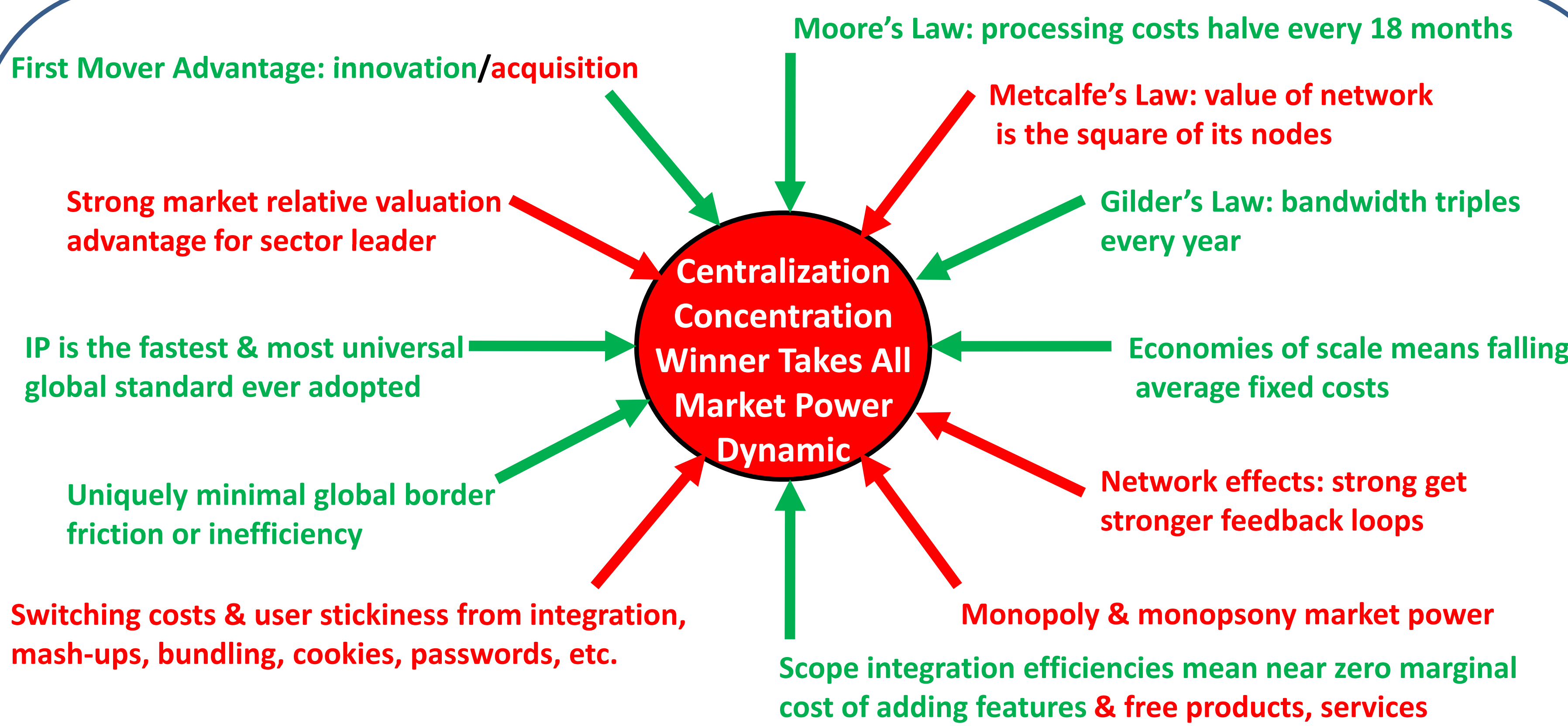
III. HOW GOOGLE INCREASINGLY IS THE INTERNET

How The Internet's Greatest Strength Is Its Greatest Weakness

How Internet Universality Leads to Centralization, Concentration & Market Power

And Why Google Increasingly is the Internet for More & More People

"What Google has done is simply take every feature in every product on the market and put them all into one system, and then make it available for free." Brandt Dainow, iMedia Connection 7-31-07



Leading Examples of this Internet "Winner Take All" Dynamic:

Google: search; Youtube: online video; DoubleClick: Ad-serving & Analytics; eBay: auctions; Amazon: e-retailing; Facebook: social media; Skype: VoIP; Twitter: real-time-infocast

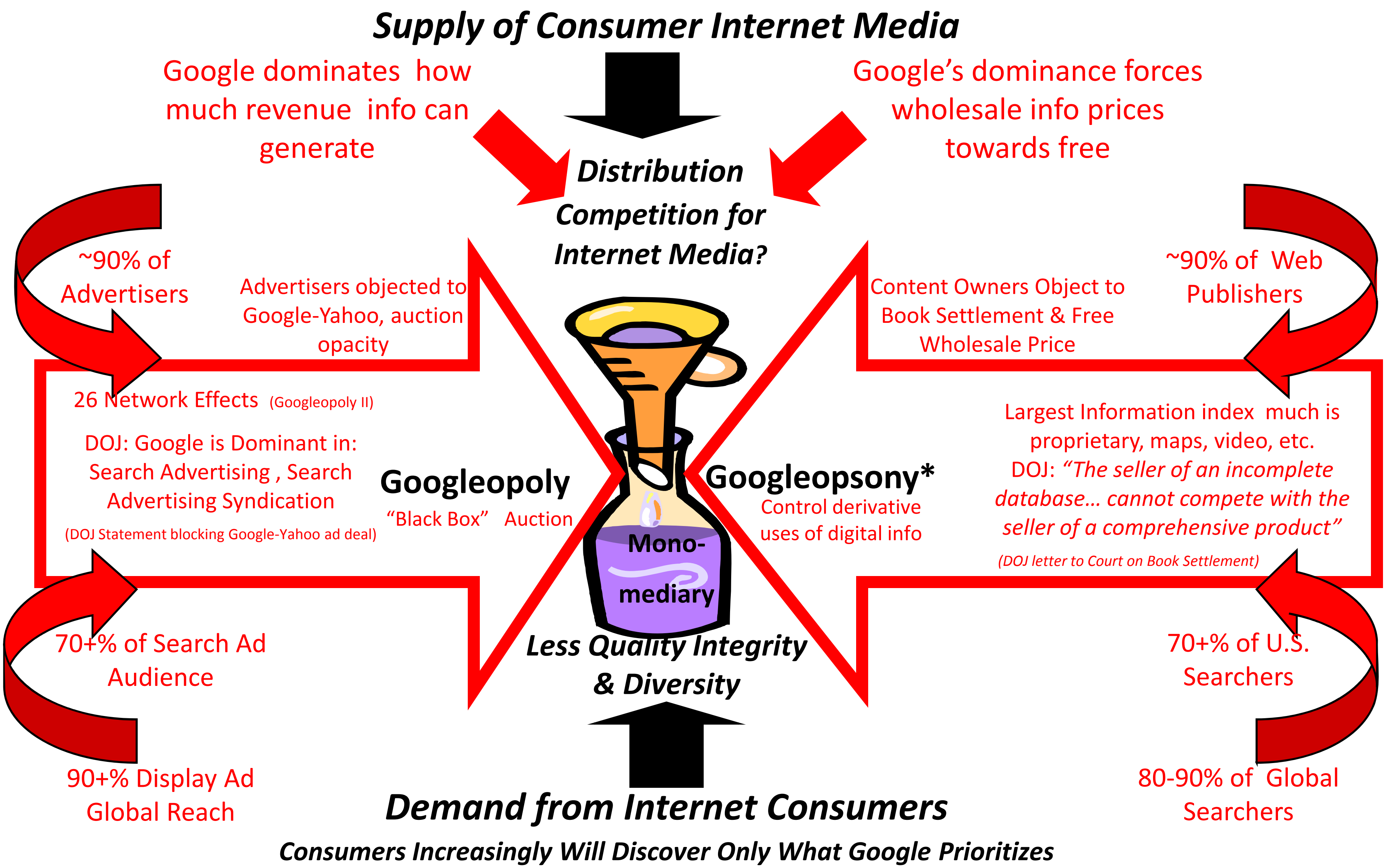
Why Google is the Internet Media Ecosystem's Consumer Platform

"Anything that benefits the Internet ecosystem will benefit Google." **Google's Peter Greenberger 3-2-10**

"The Internet makes information available; Google makes it accessible." Google's Hal Varian 11-3-09

Consumer Internet Ecosystem Building Block Capability "Stack"	Why Google is Emerging as the Consumer Internet Media Ecosystem's Monopoly Platform
Consumer Internet Ecosystem Omnipotence	The consumer Internet media ecosystem increasingly will determine: what information most people read, view, hear, learn and find; which products and services most people demand, buy or consume; which companies and organizations succeed or fail; and how competitive and diverse the world Internet Media business and environment will be for consumer and voters.
Omnivorous Ecosystem Share	Google currently commands : ~80% of global searches, 90+% of search advertising revenues, 98% of mobile searches; 80+% of unique online video viewers; ~90% share of web and website use analytics; a dominant share of mapping/location usage; only searchable database of most all videos online; only searchable database of millions (12) of digitized books; etc.
Internet Behavior Omniscience	Google is unique in having "Total Information Awareness" Power as the only entity on earth that can: track most all Internet usage, clicks, views, etc. via tracking of their unique access to 80% of global users and 90% of commercial advertisers and publishers; profiles user identifications, location, intent and associations; and monitor most all market behavior informatio and world's info.
Omnifarious Information Types	Most all info types: News, articles, videos, images, maps, pictures, books, shows, movies, songs, blogs, research, presentations, podcasts, emails, documents, desktop hard-drives, voice-prints, face-prints, click-prints, personal info, health records, Financials, contact lists, group lists, addresses: emails, domains, WiFi SSID, Mac; phone numbers, Analytics, graphs, charts, languages, histories, dictionaries, trends, prices, etc.
Omnifarious Products & Services	Most all product/service types: Search, Images, Videos, Maps, News, Shopping, Gmail, Books, Finance, Translate, Scholar, Blogger, YouTube, Analytics, Calendar, Picassa, Docs, Reader, Sites, Groups, Places, Alerts, Checkout, Chrome, Directory, Earth, Goog-411, Voice, iGoogle, Trends, Google Health, Code, Labs, Knol, Orjut, Sketch-up, Talk, Mobile, Pack, etc.
Internet-Scalable Infrastructure	Only Google has only Internet infrastructure (datacenters, databases, storage, servers & bandwidth) designed to fully scale with Internet growth; Google's BigTable distributed database design can store, process and design virtually unlimited info; Google's server-virtualization design is world's most effidient; Google's fiber network carries more IP traffic than any in the world.
Internet Omnipresence	Only Google serves most all Internet users (~80%), advertisers (~90%) & publishers (~90%); Only Google translates 57 languages, comprising ~90% of Internet users
Omnivorous Information Collection	Google's self-described "*omnivorous*" search engine is uniquely universal in being designed to incorporate all types of info and also a searcher's "*total context*" i.e. location, experience, intent
Omni-directional Ambition Omniscient Mission	Unique mission: "*organize the world's information and make universally accessible and useful,*" routinely organizing others' information that's copyrighted, proprietary, private, secret, sensitive
"Winner Takes All" Internet Dynamic	Internet universality naturally facilitates Google's centralization, concentration, & market power

How Google's Mono-mediary Hub Platform is an Internet Media Bottleneck Or When Googleopoly Meets Googleopsony



How Google Uniquely Has "Total Information Awareness" Power

"We are very early in the total information we have within Google… we will get better at personalization." **Google CEO, FT 5-22-07**

***Information now available for: Googleopoly's leverage, law enforcement subpoena, national security access, & hackers to steal**

*Personal Identifications

IP addresses via Search/Analytics/Cookies/Chrome
Email addresses via Gmail scanning & Postini filters
WiFi, SSID & MAC addresses via WiFi wardriving
Phone/mobile #s via search, Android, Voice, Talk
Voiceprint recognition via Goog411/Voice/Translate
Face-print recognition via Picassa, Images, YouTube
57 Languages identified via Translate/Voice/Video
Home addresses: Maps/Earth/StreetView/Android
Personal info via product/service registrations
Social Security/passport/license #s: Desktop Search
Credit card & bank info: Checkout/Finance/Desktop
Investment in 23andMe enables DNA identification
Health identifiers by Health, Search, Gmail, Books
Click-print IDs via analysis of multiple web histories

*Personal Location

Android GPS tracks location when no apps running
Search/Toolbar/Android use reveals user's location
Talk/Voice/Maps/Calendar signal destination plans
Google Goggles recognizes location via Streetview
Search/Earth/Maps/StreetView show favorite places

Privacy Invasion Problem

Permission-less Profiling Power

$$$

$$$$$$

Google's Total Information Awareness Power

$$$

Information Market Power

Antitrust/Monopoly Problem

*Personal Intentions

~75% share of U.S. search; ~90% of European search
Behavioral advertising profile for targeted ad-serving
Intensive interests via iGoogle, Search, Alerts, Reader
Click tracking: Analytics, DoubleClick, YouTube, Chrome
Location interest via Maps, Earth, StreetView, Search
Financial interests: Search/Finance/Portfolios/Shopping
Private drafts via Gmail, Docs, Groups, Desktop Search
Plans via Google Calendar, Gmail, Buzz, Voice, Talk, Docs
Likely votes by party/issue: Search/News/Books/Reader
Health concerns via Health/Search/Books/YouTube/Knol
Upcoming purchases: My Shopping List/Search/Buzz
Groups knows one's politics/religion/issue views

*Personal Associations

Contact lists: Gmail, Buzz, Voice, Orkut, Groups
Interests: iGoogle/Alerts/News/Reader/Groups
Reading: News/Books/Knol/Reader/My Library
Viewing: YouTube, Video, DoubleClick, Analytics
Friends: Orkut/Picassa/Buzz/Gmail/Talk/Voice
Gathering places: Earth, Maps, StreetView, Android

*Market Information

Only omnipresent Internet click tracking/analysis
Uniquely see all online advertiser demand/trends
Uniquely comprehensive view of user demand
Unique complete view of publisher ad inventory
Unique view of global supply/demand for prices
Lone access to non-public Google Trends info
First to see new trends/fads/growth inflections
Unique access to unregulated inside information
Unique knowledge of online ad market pricing

*World's Information

Trillion web-pages crawled/copied regularly
25,000 sources copied by Google News
12 million books copied by Google Books
90+% movies/TV shows copied by Youtube
~99% satellite images copied by Google Earth
90+% homes in 33 countries videoed StreetView
175 million users gmails copied regularly
57 languages' content auto-translated via Translate

How Google's Chief Economist Explains the Market Power Behind Google's Dominance of Consumer Internet Media

Steve Levy of Wired shares Google Chief Economist Hal Varian's take on"Googlenomics"*:

- *"Googlenomics actually comes in two flavors: macro and micro. The macroeconomic side involves some of the company's seemingly altruistic behavior, which often baffles observers. Why does Google give away products like its browser, its apps, and the Android operating system for mobile phones?* ***Anything that increases Internet use ultimately enriches Google, Varian says. And since using the*** *Web without using Google is like dining at In-N-Out without ordering a hamburger,* ***more eyeballs on the Web lead inexorably to more ad sales for Google." [Bolds*** **added for emphasis.]**
- *"The microeconomics of Google is more complicated****. Selling ads doesn't generate only profits; it also generates torrents of data about users' tastes and habits, data*** *that Google then sifts and processes in order to predict future consumer behavior, find ways to improve its products, and sell more ads. This is the heart and soul of Googlenomics. It's a system of constant self-analysis: a* ***data-fueled feedback loop that defines not only Google's future but the future of anyone who does business online." [Bolds added for emphasis.]***
- *"…Varian believes that a new era is dawning for what you might call the datarati— and* ***it's all about harnessing supply and demand, "What's ubiquitous and cheap?"*** *Varian asks. "Data." And* ***what is scarce? The analytic ability to utilize that data."*** [Bolds added for emphasis.]
- *"Varian, of course, knows that his employer's success is not the result of inspired craziness but of an early recognition that the Internet* ***rewards fanatical focus on scale, speed, data analysis, and customer satisfaction." [Bold added for emphasis.]***

*Steven Levy, "*The secret of Googlenomics, data-fueled recipe brews profitability," Wired Magazine, 5-22-09,*

- http://www.wired.com/culture/culturereviews/magazine/17-06/nep_googlenomics?currentPage=all

IV. HOW GOOGLE VIOLATES ANTITRUST LAW

Google's Monopolization Strategy

"It's obvious what our strategy should be. It's to work on problems on a scale no one else can." Sergey Brin, Wired UK 6-30-09

- **Misrepresent conflicts of interest to build trust as an honest broker.**
  - Google built an ill-gotten critical mass of user trust through systematic misrepresentation of Google's real interests and by not publicly disclosing serious conflicts of interest that would be considered fraudulent and deceptive if done in the off-line marketplace.
- **Systematically foreclose competition.**
  - Google uses unique market-wide metadata information power to find and buy the most strategic first movers cheap before: a business model can form effectively; *revenue* hits the "hockey stick" growth inflection point; a market can be defined for antitrust enforcement purposes; and others learn what Google knew from analyzing everyone else's proprietary metadata without permission.
  - Google co-opts and subordinates actual and potential competitors by providing outsourced search, tracking/analytics, and advertising monetization through opaque and supra-competitive revenue-sharing arrangements that create business dependency on Google.
  - Google forces the wholesale price for information access towards zero by copying all information without permission/compensation to make it accessible for free, then forcing an ad-monetization model so that info itself is not valuable, but only access & functionality.
- **Structure <u>opaque derivative</u> markets so Google can be player, referee, scorekeeper & paymaster all at once.**
  - Google's "auctions" are not auctions between buyers and sellers where the highest price prevails; Google's auctions are a derivative algorithm that discriminates against bidders to award the ad, not to who bids the most, but to who Google *estimates* has the best probability of generating the most derivative ad clicks and hence revenue for Google. Google also unilaterally sets minimum bid prices.
- **Exclude competitors from information critical to competition.**
  - Google owns and controls uniquely vast and critical datasets (YouTube, Books, Earth/Maps/StreetView, etc.) and makes them publicly accessible and useful to users, but excludes competitive crawling or indexing so competitors cannot offer competitive search results.
  - Google harvests & control s the derivative "metadata" (data on the data) that the dominant Google Internet media platform produces, i.e. the how, what, where, when, how, why & how much of most all the Internet traffic, clicks and behavior that Google uniquely records to allow Google to create unique derivative metadata profiles of individual users, groups, demographic slices, and the market overall.
- **Discriminate predatorily against competitors and "self-deal" in favor of Google info, products and services.**
  - Google detects and impedes emerging search competitors from becoming more competitive by predatory monopoly discrimination using "human raters" to lower their search ranking and increase their price per click so they have to pay more for less & can't compete;
  - Google self-deals by using Google's unique knowledge of partners, competitors, and users proprietary/private information to identify, own and then rank critical building block content first, above partners and competitors, so that competitors cannot succeed.
- **Front-run partners and competitors by using their own confidential/proprietary information against them.**
  - Google tracks, records and analyzes most all behavior on the Internet, Google's "Total Information Awareness Power," so Google can effectively reverse-engineer the most valuable trade secrets and confidential information from partners and competitors, i.e. their confidential client lists (users, advertisers), *their actual measured* strengths and weaknesses, plans, strategies, and tactics.

How Google Rigs their Info-Casino Game – So they Can't Lose

- Google deals itself Aces that are hidden in its sleeve.
  - Google manually ranks Google-owned content first: Maps, YouTube, Mobile, etc., despite representations that Google "*never manipulates search rankings to put our partners higher in search results*"
- Google deals its competitors bad cards opaquely from bottom of the deck.
  - Google's "human raters" opaquely and mysteriously assign "*quality scores*" so certain competitors rank low in results and have to pay more to get less traffic
- Google alone sees & counts everyone's else's cards -- so they can't lose.
  - Only Google tracks all players information, connections, interests, click-paths
  - Only Google profiles/categorizes each user into demographic target groups
  - Only Google can reverse-engineer publishers' audience and advertiser lists to create Google content/products/services that front-run/skim off publishers
  - Only Google knows all advertiser demographic demand so Google can front-run its publisher-partners with Google-owned content/products/services
- Google alone decides: who can play which hands; what the specific ante is.
  - Google alone: decides who can bid on which keywords, & sets price minimums
- Google runs a 'black box' – no transparency to keep the dealer honest.
  - Google excludes competitors from the game who could spot double-dealing
  - Google alone keeps score and counts clicks with no one watching
  - Google alone decides the worth of each click type with no one watching

Why Google is Not an Honest Broker

It Hides Multiple Serious Conflicts-of-Interest

- Google may have devised the most conflicted business model ever – in funneling and ranking all the world's information, for most all the world's users, advertisers, and publishers, *through one single gateway*, for money, without anyone's permission, and without any independent third-party accountability mechanisms.
- Who does Google work for?
  - Google users whom Google claims it works for, but who don't pay Google for most anything?
  - Google advertisers who actually are Google's real customers or users who Google claims it works for?
  - Google publishers, who Google calls its "partners," since they revenue-share with Google?
  - Google shareholders whose votes don't matter since Founders granted their stock 10 votes per share?
- Which Google role rules and how are Google's conflicting roles represented and/or resolved?
  - Google as *player/competitor* in owning content, products and services?
  - Google as *referee* in manually setting website quality scores or censoring info from search/advertising?
  - Google as *scorekeeper* in ranking everyone's information?
  - Google as *paymaster* in running "derivative non-auctions" for most all of the industry?
  - Google *as proprietary owner* of the dominant consumer Internet media platform?
- Unlike every other public broker role in finance, real estate, auctions etc. -- which must disclose and publicly manage conflicts-of-interest fairly in order to operate as an "honest broker" and avoid charges of misrepresentation or fraud -- Google does not even publicly acknowledge the existence of its multiple serious conflict-of-interest, or that they could potentially harm consumers, customers, or the public.

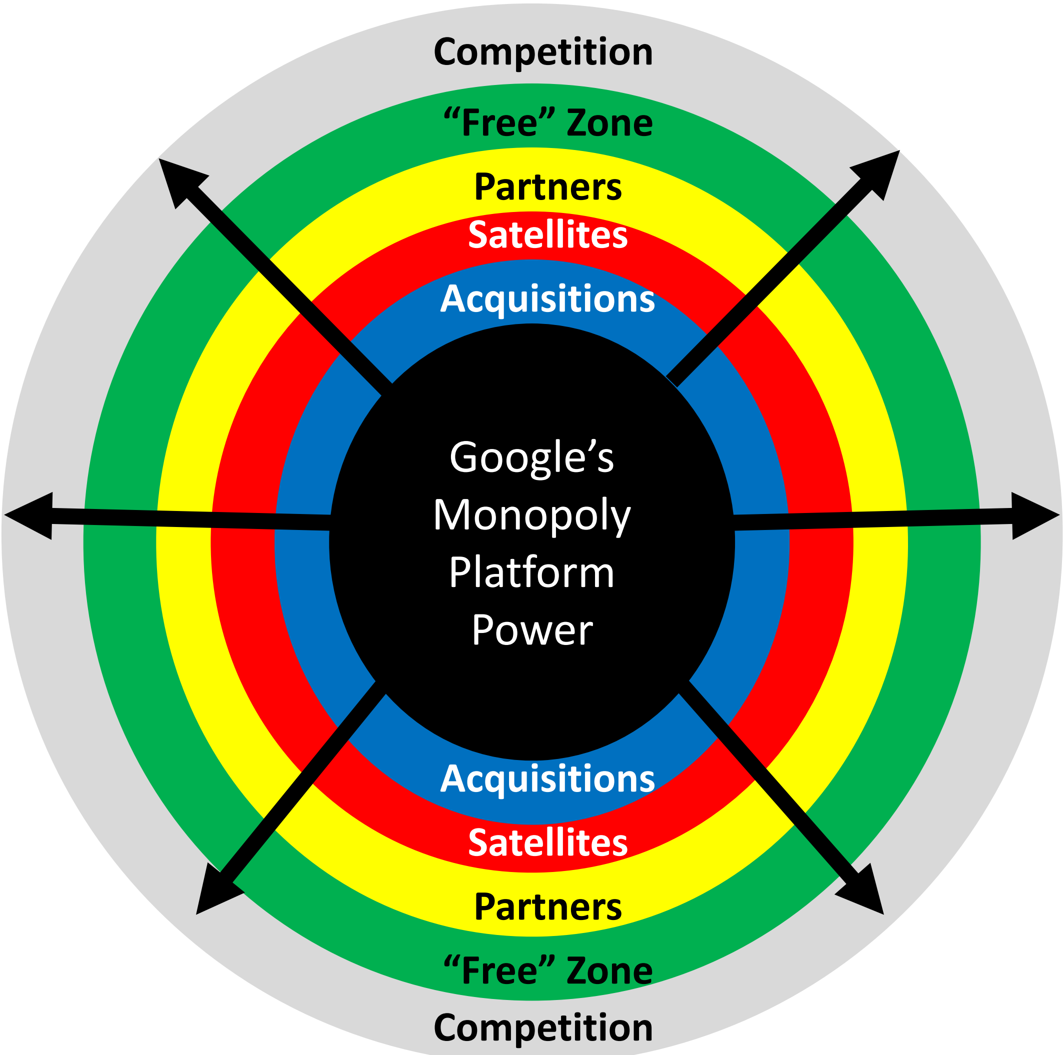
How Google is Systemically Anti-Competitive

Consumer Internet Ecosystem Building Block Capability "Stack"	How Google Abuses its Platform Monopoly To Harm the Consumer Internet Media Ecosystem
Consumer Internet Ecosystem Omnipotence	Only Google has self-described "king maker" power to determine what information or applications are found, used, read, viewed, etc., & which businesses succeed or fail on the Net.
Omnivorous Ecosystem Share	Google has leveraged acquired dominance of users, advertisers, publishers, and exclusionary information practices to dominate search, search advertising, Mobile advertising, &video streaming; display ad-serving/tools/analytics, Mapping, video streaming, and web behavior tracking
Internet Behavior Omniscience	Google's "*innovation without permission*" is viewed by Google as cart blanche to collect whatever information it can on its users, partners, competitors without respect to privacy, IP or confidentiality.
Omnifarious Information Types	Google includes as many information types as it can in its universal search so it can either have unique or exclusive information so users must use Google as their search engine.
Omnifarious Products & Services	Google predatorily subsidizes new products & services in order to commoditize search complements to foreclose actual and potential competition to Google.
Internet-Scalable Infrastructure	No other company has the monopolistic vision of designing an infrastructure to scale with the entire Internet nor will any other company be willing to take the security, business, property, and privacy risks of Google's "BigTable" -- all-eggs-in-one-basket design.
Internet Omnipresence	Monopoly-tipping acquisitions: YouTube, DoubleClick, & AdMob, network effects, information exclusions, and monopoly discrimination, self-dealing and front-running ensure that no competitor can aggregate a comparable share of Internet users, advertisers and publishers – the vortex of Google's monopoly power
Omnivorous Information Collection	DOJ on Google Book Settlement: *"The seller of an incomplete database... cannot compete effectively with the seller of a comprehensive product."* Google actively prevents competitors from crawling some of the largest stores of the World's information – YouTube's videos, Google's Maps & 12 million digitized books – publicly accessible to users
Omni-directional Ambition Omniscient Mission	Free market competition depends on rule of law, and contract and anti-fraud enforcement; No law abiding company can compete against a scofflaw which abuses IP, contracts, confidentiality, & privacy for competitive advantage
"Winner Takes All" Internet Dynamic	To the winner go the spoils: Google takes-out first-mover nascent competitors before market definition & revenue competition can form; Self-deals Google content top search result; "Human raters" punish competitors with low quality scores, low rankings, higher prices per click ; Front-run publishers with new content/products/services based on publishers' proprietary information

How Google Has Re-enforcing Spheres of Monopoly Influence

Most of Internet is Either on Google's Payroll or Undercut by its Free Info/Products/Services

"I think the solution is tighter integration. In other words, we can do this without making an acquisition. The term I've been using is 'merge without merging.' The Web allows you to do that, where you can get the Web systems of both organizations fairly well integrated, and you don't have to do it on exclusive basis." Google CEO Schmidt 1-7-09



Black Box Monopoly Platform:
Search Engine; Auctions; Quality Score
"Human Raters;" Exclusive info/ Metadata

Acquisitions: YouTube = ~80% Video streaming audience share, quarter of all search; DoubleClick = most all users, advertisers, publishers Google did not have, and Dominance in ad-serving and analytics; AdMob = ~75% in-app mobile ad share

Satellite companies dependent on Google for search monetization: AOL, MySpace, Ask.com, Craigslist, and thousands of popular websites

Partners: Tens of thousands of AdWords and AdSense advertisers and publishers share revenues derived from Google's opaque pay-per-click "auction" model

Free Google Content, Products & Services: Search, Images, Videos, Maps, News, Shopping, Gmail , Books, Finance, Translate, Scholars, Blogs, YouTube, Calendar, Photos, Documents, Reader, Sites, Groups, Alerts, Chrome, Desktop, earth, Goog-411, StreetView, Health, Knol, Orkut, Picassa, talk, Voice, iGoogle, etc.

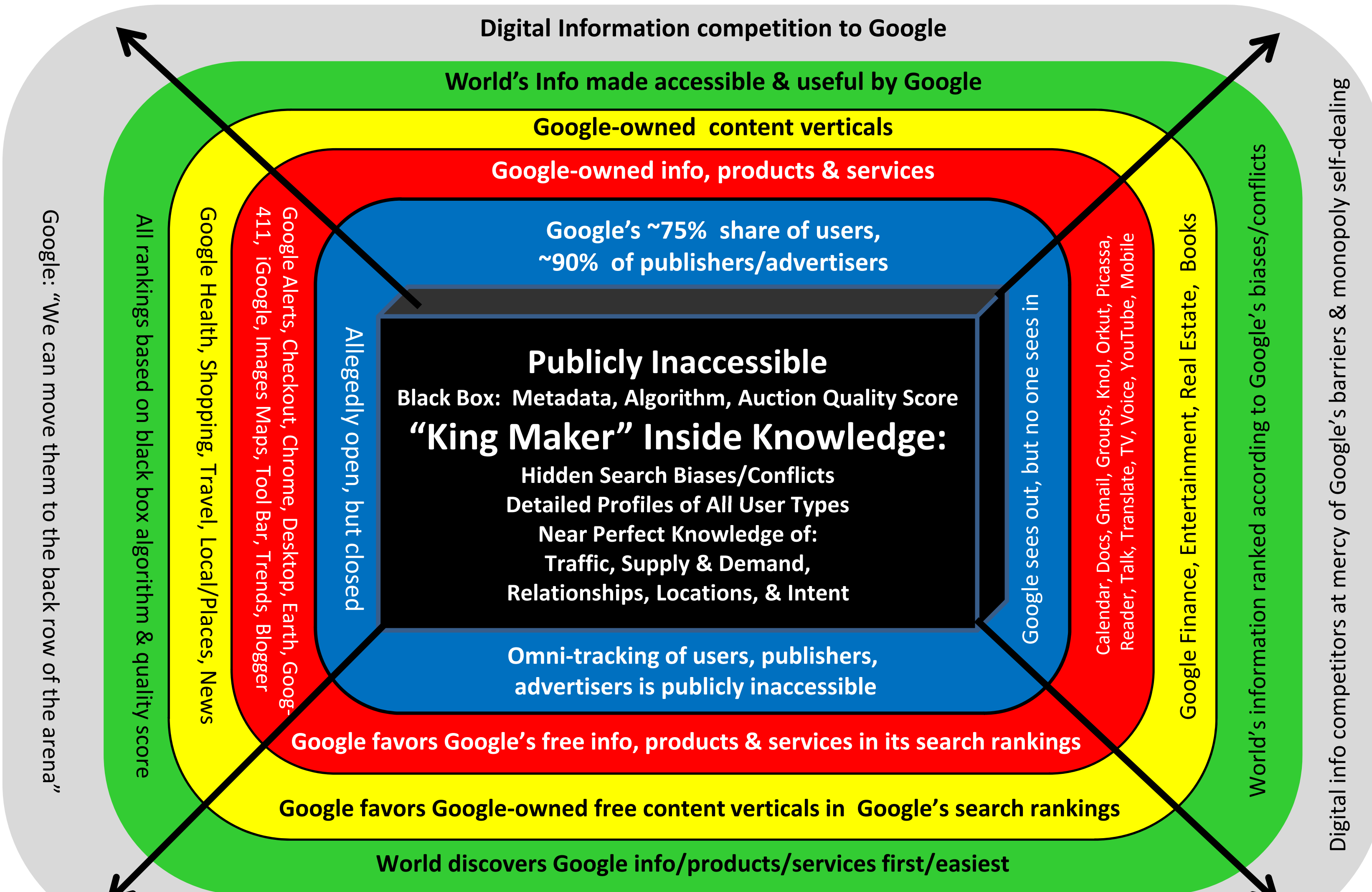
The Shrinking Competition: Those companies <u>not:</u>
Hoping to be acquired by Google;
Dependent on Google for search monetization;
"Partners" in Google's search or display advertising; or
Users of Google's free content, products, & services

How Google Search Discriminates Against Competitors' Content/Distribution

Google's Rapidly Extending its Monopoly Via Search-Favored & Free: Google Information, Products & Services

Can't compete with a search monopoly that ranks/advertises its own info, products & services above everyone else's

"Search is critical. If you are not found, the rest cannot follow." **Santiago de la Mora, Google Executive, 8-23-09**



Google Buries Rank of: TradeComet, MyTriggers, Foundem, Ciao, Ejustice.fr, Navx…

Googleopoly's Secret Weapon

Google's "*Innovation Without Permission*" is Code for:

Unfettered "*Deep Tracking Inspection"* or "*Total Information Awareness Power*"

***"We can suggest what you should do next, what you care about. Imagine: We know where you are, we know what you like."… "You can literally know everything."* Google CEO Schmidt 9-8-10**

Deep Tracking Inspection – of everything that passes through Google's cloud

- What virtually no one appreciates except Google is that the Internet is the ultimate **deep tracking inspection** and surveillance technology – when sent through Google's dominant Internet media platform of data centers that copy, store and analyze most all Internet activity.
  - Everything, literally everything that is on the Internet, is ones and zeroes that by design are sent back to Google's cloud data centers for processing, recording, storage and analysis – the only entity in the world with the mission and capability to do so.
- Other things that virtually no one appreciates except Google is:
  - What Google's mantra *"innovation without permission*" means is that Google has to ask no one for their permission to use the derivative tracking metadata from anyone: publisher "partners," advertiser clients, competitors, proprietary owners, or users -- because if the ones and zeroes pass through Google's data centers to be processed and recorded – Google views those ones and zeroes as fair game to use in any way they see fit, because it is Google's self-asserted, universal property right to "*innovate without permission*."
    - In practical terms, innovation without permission means unfettered "fair use," "mash-up," "re-mix," "open source," and 2.0 transparency (i.e. "publicacy, the opposite of privacy).
  - What Google can reverse-engineer from all the ones and zeroes (or metadata -- data about data) that pass through Google's data centers?
    - Google can aggregate the user and advertiser *audience demographic profile* of every publisher and their content down to a page, so that it could create supra-competitive content, products and services that would have the unique inherent advantage of being able to replicate the best of what everyone else does and knows.
- Google's unique deep tracking inspection capability creates "Total Information Awareness Power" where **Google can't lose** because it can use/build upon the secrets, property, and trailblazing success of everyone else -- without permission.
  - It would be like before a football season, one team had access to a copy of every opponents' scouting reports, playbooks, game plans and signals – because they owned the league/platform that everyone else used to compete.

What are Google's Topical Monopolization Issues?

- **Pending Antitrust Suits Against Google:**
  - **US: TradeComet & MyTriggers;**
  - **EU: Foundem, Navx, Ejustice, Ciao**
- **Yahoo-Japan/Google Search/Ad Outsourcing Agreement:**
  - Grants Google 90+% of Japan's searches; increases Google's world search share from ~70% to ~74%; eliminates search competition.
- **Google Book Settlement (GBS):**
  - DOJ opposes GBS: as it would "*grant Google sweeping control over digital commercialization of millions and millions of books;*" and "*good intentions of members of a price-fixing combination are no legal justification for lessening price competition*." (Per DOJ)
- **ITA Travel Software Acquisition**:
  - Expedia Chairman Barry Diller: "*I think it is disturbing that Google is moving into serving individual spaces, rather than being search neutral,*"… "*It is a dangerous step because it is inevitably going to cause problems with customers...*" (per FT)
  - Greenlight COO Pourus: Google has become the "*ultimate informational intermediary*;" All intermediaries "*should now be rethinking their business models*." (per Comm Daily)
- **Metaweb Acquisition:**
  - Google's acquiring MetaWeb, the leading semantic web database of more than 12 million "things;" it was probably the most critical building block for a potential search competitor to compete with, and differentiate from, Google search; while the raw database will be open and accessible to the public, <u>only</u> Google will collect and know the who, when, where & how semantic information is used.
- **Zynga Games Investment by Google:**
  - Online games like Zynga's provide ~30% of traffic to FaceBook and social media and represent a substantial portion of their monetization potential; Google is co-investing with Yahoo-Japan owner SoftBank, which appears to be a possible quid pro quo reward to SoftBank for choosing Google for Yahoo-Japan's search.

V. GOOGLEOPOLY’S DEFLATIONARY IMPACT ON ECONOMIC RECOVERY

How Google Plays the Leading Role in the Internet Deflationary Spiral

- *"Internet distribution does not work if it is built on the economics of scarcity, but only works with ubiquity and abundance economics,"* Google CEO Schmidt told the Newspaper Association, April 9th 2009.
  - "*Ubiquity*" is code for Google's mission to make all the world's information accessible for free.
  - "*Abundance economics*," per Wikipedia, is "**post-scarcity"** which *"describes a hypothetical form of economy or society, often explored in science fiction, in which things such as goods, services and information are free, or practically free. This would be due to an abundance of fundamental resources (matter, energy and intelligence), in conjunction with sophisticated automated systems*…" i.e. Googleopoly's Internet platform of today.
- Chris Anderson, Author of "*Free – The Future of a Radical Price"* said: Google's chief economist Hal Varian "*taught me everything I know about free;" "Google…is the citadel of free;" and "Google is the poster child of making money around free."*
- **Only Google has the audience, business model and capability that can thrive long term on free content, products and services.**
- Google increasingly is the Internet and is systematically monopolizing Internet media via the ultimate price deflation of… free.
  - Google provides search for free to over 600m users daily and over a billion users weekly, and monetizes free search, and all Google's free products and services, with its DOJ-determined monopoly in search advertising.
  - Google, via acquisition of dominant YouTube, DoubleClick and AdMob, now has a monopoly in free IP-video distribution.
  - Google also offers most every major type of Internet product and service for free or near free -- supported by advertising.
  - Google digitized 12 million books without the permission of copyright holders and makes them available to search for free; (authors and publishers have sued Google for copyright infringement and then settled for about $10 a book. The DOJ opposes the settlement as a violation of copyright and antitrust laws).
  - Google-YouTube assumed copyrighted video should be free: *"There is no question that YouTube and Google are continuing to take the fruit of our efforts without permission and destroying enormous value in the process. This is value that rightfully belongs to the writers, directors and talent who create it and companies like Viacom that have invested to make possible this innovation and creativity."* per Viacom's press release.
- **Déjà vu:**
  - People get the deflationary spiral, property devaluation and job losses free Napster-ization caused the music industry.
  - People understand the deflationary spiral, property devaluation and job losses that free "Google News" aggregation of all 25,000 news sources, and free classified ads from Google satellite Craisgslist caused the newspaper/journalism industry.

How Google Has a Deflationary Impact on the Economic Recovery

Internet-Related Distribution Is an At-Risk Trillion-Dollar Sector Employing Millions

"The brutal economic answer is that the Internet does in fact change other people's businesses because of this massive distribution…" "We should just acknowledge that and not hide from it." Google CEO Schmidt 6-21-09

- **There's no net economic growth, job creation or property value creation in a "free" Internet sector model, only: a deflationary price spiral; net negative growth, property devaluation, job losses, and monopolization.**
- The "*Google Economic Effect*:"
  - *Deflates* the price for information, products and services to free -- so only targeted advertising can succeed;
  - *Eliminates* competition-driven: quality, diversity of choice, and innovation;
  - *Centralizes/concentrates* Internet distribution, which makes the economy highly vulnerable to *systemic* disruption.
  - *Reduces* employment because Google views people as inherently inefficient relative to Internet automation, and because Google views customer service personnel as unnecessary, and most sales and marketing personnel as redundant.
  - *Obsoletes* several hundreds of thousands of jobs rapidly -- much more quickly than the deflated Internet sector can absorb.
- Google is an unstable and unpredictable business platform for others to build businesses on.
  - While Google's ~$25b ad "auction" platform is efficient *for Google*, it is not a stable economic platform/foundation on which other companies can predictably grow and thrive.
  - Google's Internet economy is an opaque, unaccountable, intellectual-property/privacy-unfriendly, "black box" where the foundation of ranking quality scores and search/auction algorithms are constantly shifting sands.
  - Google's CEO went so far to tell a gathering of magazine publishers in October of 2009 that: "*We don't actually want you to be successful. The company's algorithms are trying to find the most relevant search results, after all, not the sites that best game the system.*" In other words, Google views efforts by web publishers to compete and improve their search ranking as -- spam and manipulation – not normal competition! Simply, only Google is allowed to influence what information is ranked high.
- Google also has grossly overstated its economic impact publicly.
  - Google has double and triple counted its economic impact; it has not subtracted their consumption from their production to reach a net economic contribution figure; and it has completely ignored vast Google-generated negative externalities, including: the price deflation of free, job losses, and massive Google cost-shifting to individuals, suppliers and government.

What Are the Industries/Companies in Googleopoly's Deflationary Path?

>200 info-distribution companies are at risk of being annexed, controlled, subjugated or commoditized by Google

***"Our model is just better. Based on that, we should have 100% share."* Google CEO Schmidt 12-10-09**

Communications
Twitter Skype Vonage AT&T Verizon Sprint DeutscheTelecom
T-Mobile British-Telecom Telefonica Vodafone France Telecom etc.

Mobile
Apple RIM Nokia Ericsson Seimens Motorola etc.

Maps
TeleAtlas Tom-Tom Garmin Mapquest Nokia-Navteq etc.

Local
Yelp CitySearch Angies-List Craigslist
Local.com Yellowbook.com SuperPages etc.

Social Media
Facebook MySpace Bebo Linkedin Plaxo
eHarmony Match.com Monster.com
CareerBuilder.com Wikipedia evite.com
shutterfly.com Photbucket.com
Classmates.com Reunion.com etc.

Portals/Information
Yahoo AOL Dictionary.com About.com
Reference.com info.com ehow etc.

Games
Facebook Zynga Electronic Arts Activision

Search
Microsoft-Yahoo Cuil Wolfram-Alpha
T radeComet MyTriggers Foundem Ciao
eJustice.FR NAVX OneNewsPage etc.

Cloud Computing
Amazon Microsoft IBM Dell HP Oracle
European-Cloud-Computing etc.

Payments
eBay-Paypal Obopay-Nokia etc.

Shopping
Amazon Best-Buy Walmart Target Buy.com Shop.com
Shopping.com Overstock.com Coupons.com etc.

Zillow Realtor.com LendingTree.com etc. **Real Estate/Mortgages**

WebMD HealthCentralNetwork Drugs.com RightHealth.com **Health**

Deflation

TV Netflix Epix Hulu Tivo TV-Guide Fandango Movies.com
Amazon Apple Blockbuster NewsCorp-Fox Disney-ABC Viacom CBS
Comcast-NBCU RTL-Group Canal-Plus Setanta SkyTV etc.

Content Delivery Akamai Limelight Amazon Adobe

News
AP Agence-Presse WSJ FT NTY Tribune CNET
CNN Gannett Knight Hearst Newhouse Scripps
Wash-Post Guardian Springer Mediaset
Bertelsmann Mirror Pearson El-Economista
la-Information Publico Telegraph leMonde
Economist Euractive Fortune etc.

Books
Amazon Barnes-Noble Hachette
Lagardere Kluwer OUP Pearson
Random-House HarperCollins
Simon&Shuster Borders
HalfPriceBooks.com etc.

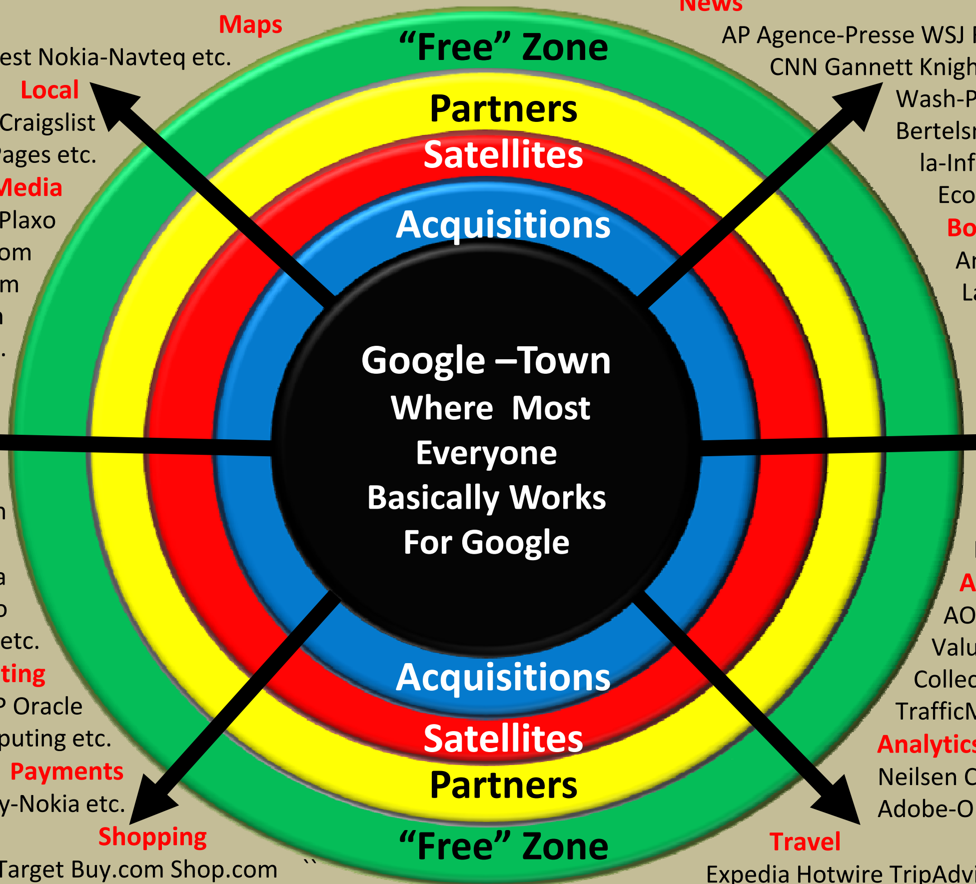
Advertising
Omnicom WPP Interpublic
Publicis Dentsu Havas Euro-RSCG
BBDO McCann Erickson Wisdek
Leo Burnett etc.

Advertising Networks
AOLAdvertising Yahoo
ValueClick Microsoft Specific Fox 24-7
Collective interCLICK TribalFusion
TrafficMarketplace Turn etc.

Analytics
Neilsen ComScore Experian-Hitwise JD-Power
Adobe-Omniture emarketer etc.

Travel
Expedia Hotwire TripAdvisor Kayak Orbitz Sidestep CheapTickets
Amadeus TravelPort GoVoyages OPODO Hotels.com Priceline
Travelocity Travelzoo etc.

Display Ads OpenXTechnologies Yahoo Microsoft



Deflation

VI. CONCLUSIONS & RECOMMENDATION

Why Are the Stakes So High?

What's at risk from a global monopoly bottleneck over how most access, use and monetize the <u>world's</u> information?

Democracy
Fair Elections
News
Public Opinion
Education

Freedom
Civil Liberties
Cultural/Religious
Diversity/Tolerance

Competition
Deflationary Spiral
Economic Growth
Job Creation
Innovation

Privacy
Cyber-security
Intel. Property
Online Safety

Sovereignty
National
Individual
Cultural
Religious

Monopoly Search Discrimination Power
Monocaster Discrimination Power
Decider of Winners and Losers
Consumer Internet Media Gatekeeper

"The biggest kingmaker on this earth"
World's Supreme Information Authority?
Global Free Speech/Censorship Policeman?
Arbiter of National Boundaries & "the Truth"?

Democracy?
Fair Elections?
News?
Public Opinion?
Education?

Freedom?
Civil Liberties?
Cultural/Religious
Diversity/Tolerance?

Competition?
Deflationary Spiral?
Economic Growth?
Job Creation?
Innovation?

Privacy?
Cyber-security?
Intel. Property?
Online Safety?

Sovereignty
National?
Individual?
Cultural?
Religious?

How are Consumers Harmed by Innovation & Free Products/Services?

- **Google's core antitrust defense is: where is the harm to consumers from all Google's innovation and free products and services?**
  - Essentially Google argues that Google-led innovation and free subsidized products and services are superior to, and more consumer-beneficial than, all competitors' offerings and hence Google is better than a competitive market.
  - Unfortunately that is more an argument against competition and antitrust law than antitrust enforcement.
  - The fundamental premise of antitrust law and over a century of experience rejects this Google-is an-exception argument and maintains that competition serves consumers better over the long run than monopoly, because in the absence of competition the monopoly does not have any economic incentive to serve users interests.
  - This is especially true for Google's which does not work for users, but advertisers.
- **How is the consumer harmed from more Google innovation?**
  - The crux here is not whether any one else will be able to freely innovate or whether there will be Google "mono-vation," which is heavily skewed toward "innovation" that subscribes to Google's assumptions of: "*innovation without permission,*" which assumes hostility to the property rights of publishers, privacy rights of users, and proprietary rights of competitors. Moreover, the business model must be advertising based not subscription or micropayment; and speed and efficiency trump privacy and security in design.
- **How is the consumer harmed from free Google products & services?**
  - The crux here is not whether consumers benefit from the free product or service being offered, but whether or not the system will remain competitive so that other products and services critical to a competitive ecosystem, like accountability measurement, remain competitive and hence independent.
  - Undercutting paid-for products or services with ones that are free (based on advertising or cross-subsidization) **can harm consumer by defunding consumer value and protection: i.e. responsive customer service, and privacy/security protections**.
  - Free, one-sided analytics products and services that are owned by Google and not independent mean that Google can rig the competitive game by being a player that owns the referee and scorekeeper, so that future products and services need not operate in the interests of users.
- **How is the consumer harmed by free Google information?**
  - While the consumer benefits from the availability of free information, the consumer does not benefit from a monopoly system that reduces the incentive and opportunity to reap a significant reward for the creation of valuable content and that reduces the quality and diversity of information being produced going forward.

Recommendation

DOJ Should File a Sherman Section 2 Monopolization Case
EU Should File Section 102 Statements of Objections

- Google is the dominant *platform* for Internet media and is monopolizing the consumer Internet media *ecosystem* and predatorily deflating prices sector-wide– so the antitrust problem is broad & systemic, not narrow & specific.
  - To try and address the Google antitrust problem narrowly and reactively via narrow issues like the Google Book Settlement or the ITA Software transaction would be a futile antitrust game of "whack-a-mole."
- Moreover, Google's antitrust defenses are macro and not specific: "*competition is but a click away*;" Google is innovative and antitrust enforcement would impede innovation; and free products and services can't harm consumers.
  - **A Sherman Section 1 & 2 monopolization case and/or an EU Section 102 Statement of Objections are necessary** to address and encompass the breadth and depth of the long term threat to Internet media and distribution competition, quality, diverse choice of information/distribution, and diverse and competition-driven innovation.

APPENDIX A: SCOTT CLELAND BIO
APPENDIX B: GOOGLEOPOLY RESEARCH

Appendix A: Bio: Scott Cleland, President, Precursor® LLC

- **Bio:** Scott Cleland is a precursor, a prescient analyst with a long track record of industry firsts. Cleland is President of Precursor® LLC, which consults for Fortune 500 clients; authors the "widely-read" PrecursorBlog.com; publishes GoogleMonitor.com & Googleopoly.net; and serves as Chairman of NetCompetition.org®, a pro-competition e-forum supported by broadband interests. Eight different Congressional subcommittees have sought Cleland's expert testimony on a wide range of complex emerging issues related to competition; and *Institutional Investor* twice ranked him as the top independent telecom analyst in the U.S. Cleland has been profiled in *Fortune, National Journal, Barrons, WSJ's Smart Money, Investors Business Daily,* and *Washington Business Journal.*
  - Cleland's Full Biography can be found at: http://www.precursor.com/bio_long.htm
- **Scott Cleland is Publisher of:**
  - www.PrecursorBlog.com
  - **www.GoogleMonitor.com**
  - **www.Googleopoly.net**
- **Scott Cleland's Congressional Testimony on Google:**
  - Before the Senate Judiciary Subcommittee on Antitrust on the Google-DoubleClick Merger, September 27, 2007. http://googleopoly.net/cleland_testimony_092707.pdf
  - Before the House Energy and Commerce Subcommittee on the Internet on Google Privacy issues, July 17, 2008. http://www.netcompetition.org/Written_Testimony_House_Privacy_071707.pdf
- **Presenting at the Federalist Society: Why Google is a Monopoly**
  - http://www.precursorblog.com/content/why-google-a-monopoly-presenting-case-federalist-society

Appendix B: www.Googleopoly.net Research

Googleopoly Research Series:

- Googleopoly I: The Google-DoubleClick Anti-competitive Case
  - http://googleopoly.net/merger.html
- Googleopoly II: Google's Predatory Playbook to Thwart Competition
  - http://googleopoly.net/googleopoly_2.pdf
- Googleopoly III: Dependency: The Crux of the Google-Yahoo Ad Agreement Problem
  - http://googleopoly.net/googleopoly_3_dependency.pdf
- Googleopoly IV: How Google Extends its Search Monopoly to Monopsony Control over Digital Information
  - http://googleopoly.net/Googleopoly_IV_The_Googleopsony_Case.pdf
  - Chart: Google's Digital Information Distribution Bottleneck
    - http://googleopoly.net/Googles_Digital_Information_Distribution_Bottleneck_Chart.pdf
- Googleopoly V: Why the FTC Should Block Google-AdMob
  - http://www.googleopoly.net/Why_The_FTC_Should_Block_Google.pdf
  - Chart: Google-AdMob Monopoly Bottleneck Chart http://googleopoly.net/merger_to_monopoly.pdf

Additional Googleopoly Related Research:

- Google: "We're the Biggest King Maker on This Earth"
  - http://precursorblog.com/content/google-were-biggest-kingmaker-earth-googleopoly-update
- What Private Information Google Collects
  - http://googlemonitor.com/wp-content/uploads/2010/05/Google%20Privacy%20Fact%20Sheet.pdf
- Why Privacy is an Antitrust Issue and Google is its Poster Child
  - http://precursorblog.com/content/why-privacy-is-antitrust-issue-why-google-its-poster-child
- Google's "Total Information Awareness Power" – A One-page Graphic on All the Information Google Has
  - http://www.precursorblog.com/content/googles-total-information-awareness-power-a-one-page-graphic-all-information-google-has
- Googleopolization Through Anti-competitive Search Discrimination Chart http://googleopoly.net/Google-opolization.pdf

Please visit www.GoogleMonitor.com for additional information.