



FTC-Google Antitrust Primer: Top Ten Q&A

1. Why is the FTC Investigating Google?
2. Why Isn't Competition "One Click Away?" (*graphic*)
3. Why Does Google Have a Search Advertising Monopoly? (*graphic*)
4. How are Consumers and Innovation Harmed by Google?
5. What Makes Google's Monopoly Lasting? (*graphic*)
6. How Does Google Search Discriminate Against Competitors? (*graphic*)
7. How Have Google's 98 Acquisitions Foreclosed Competition? (*graphic*)
8. What is Google's Monopolization Strategy?
9. How Can One Explain the Google Antitrust Problem to a Non-Expert?
10. Why is Google's Denial of Conflicts a Deceptive Trade Practice?

By **Scott Cleland****

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* See Appendix D for links to Googleopoly I-VII research series.

** The views expressed in this presentation are the author's; see Scott Cleland's full biography at: www.ScottCleland.com

***Precursor LLC serves Fortune 500 clients, some of which are Google competitors.

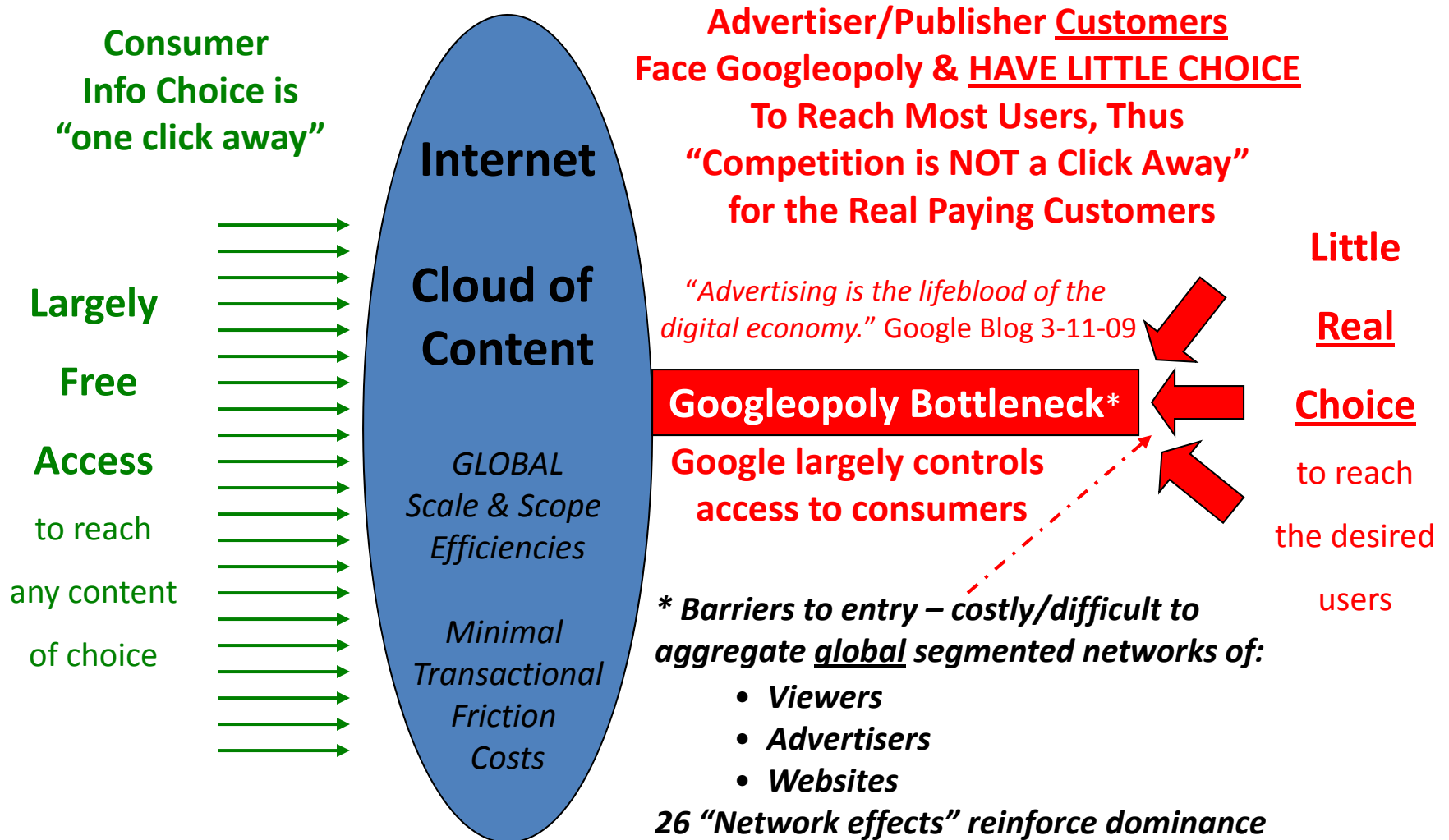
1. Why is the FTC Investigating Google?

1. **FTC Promised to Monitor Google Closely:** In approving Google's acquisition of DoubleClick (12/07) in a 4-1 vote, the FTC said: *"We want to be clear, however, that we will closely watch these markets and, should Google engage in unlawful tying or other anticompetitive conduct, the Commission intends to act quickly."*
2. **Google is #1 Antitrust Violator:** U.S. antitrust authorities have sanctioned/opposed Google *five times, involving five different markets, in the last 30 months alone*: DOJ threatened a monopolization suit in blocking the Google-Yahoo Ad Agreement; DOJ *twice* opposed the Google Book Settlement in Federal Court; DOJ sanctioned Google with five other companies for collusion in hiring practices; FTC forced Google CEO off of Apple's board; DOJ required court supervision of Google and its integration of ITA.
3. **FTC/DOJ Have Already Concluded Google is Dominant:** in search advertising/syndication; based on *five* prior FTC/DOJ investigations: DoubleClick, Google-Yahoo, Yahoo-Microsoft, Admob, & ITA.
4. **DOJ's #2 + #3 Yahoo-Microsoft Market-Remedy Has Failed:** The DOJ's fifteen-month-old market-based remedy, enabling the #2 & #3 competitors to combine, has had negligible impact on Google's dominance.
5. **EU Launched a Broad Google Investigation Last Year:** U.S. antitrust authorities are concerned about losing jurisdictional relevance to the EU as companies increasingly view Europe as the forum of first resort to complain about antitrust violations by U.S. companies. Moreover, the EU's subpoenas have yielded *a gusher of 500+ responses* proving the breadth, depth and seriousness of concern over Google's monopoly.
6. **FTC's Section 5 Supra-Antitrust Authority Suits Google Case Well:** The FTC shares DOJ's Sherman/Clayton antitrust authority, but also has unique Section 5 consumer protection authority, which is particularly well suited to challenge the source of Google's unusually-gained market power, i.e. ill-gotten public trust via systematic misrepresentation to the public that Google is user-aligned and unbiased in search and search advertising, when the evidence shows Google is advertiser-aligned and discriminates in favor of its own content, products and services in its search/search advertising. (The FTC has already sanctioned Google for deceptive privacy practices using Section 5 in March 2011, resulting in a twenty-year consent decree.)

2. Why Isn't Competition "One Click Away?"

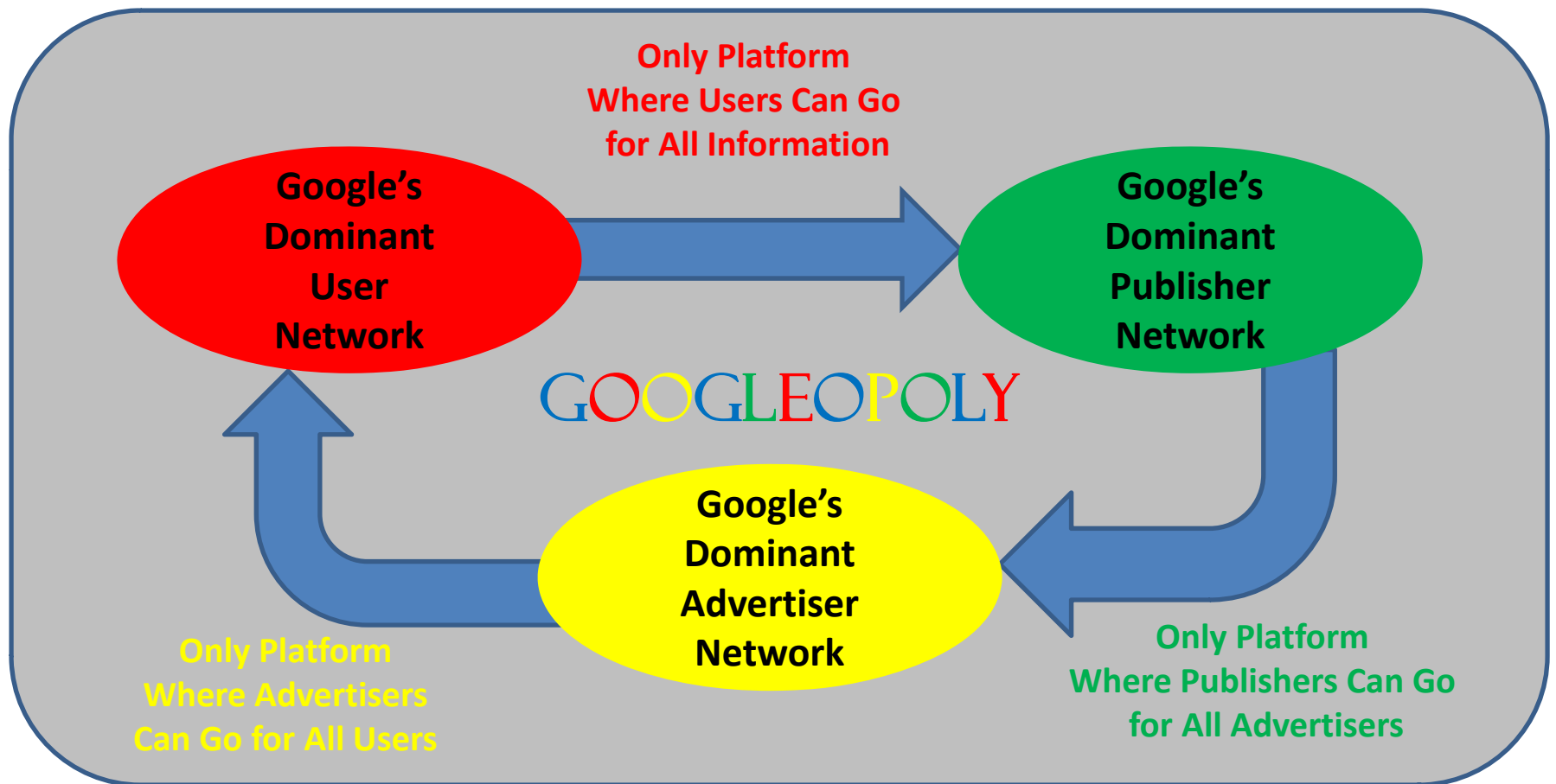
Advertisers not Consumers Pay for Internet Content

Consumers *are the Product* Advertisers & Publishers Essentially 'Buy' from Google
So Competition is Not "One Click Away" for Real Customers: Advertisers/Publishers



3. Why Does Google Have a Search Advertising Monopoly? How Google's Perpetual, Self-Reinforcing, Business Feedback Loop Works

“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



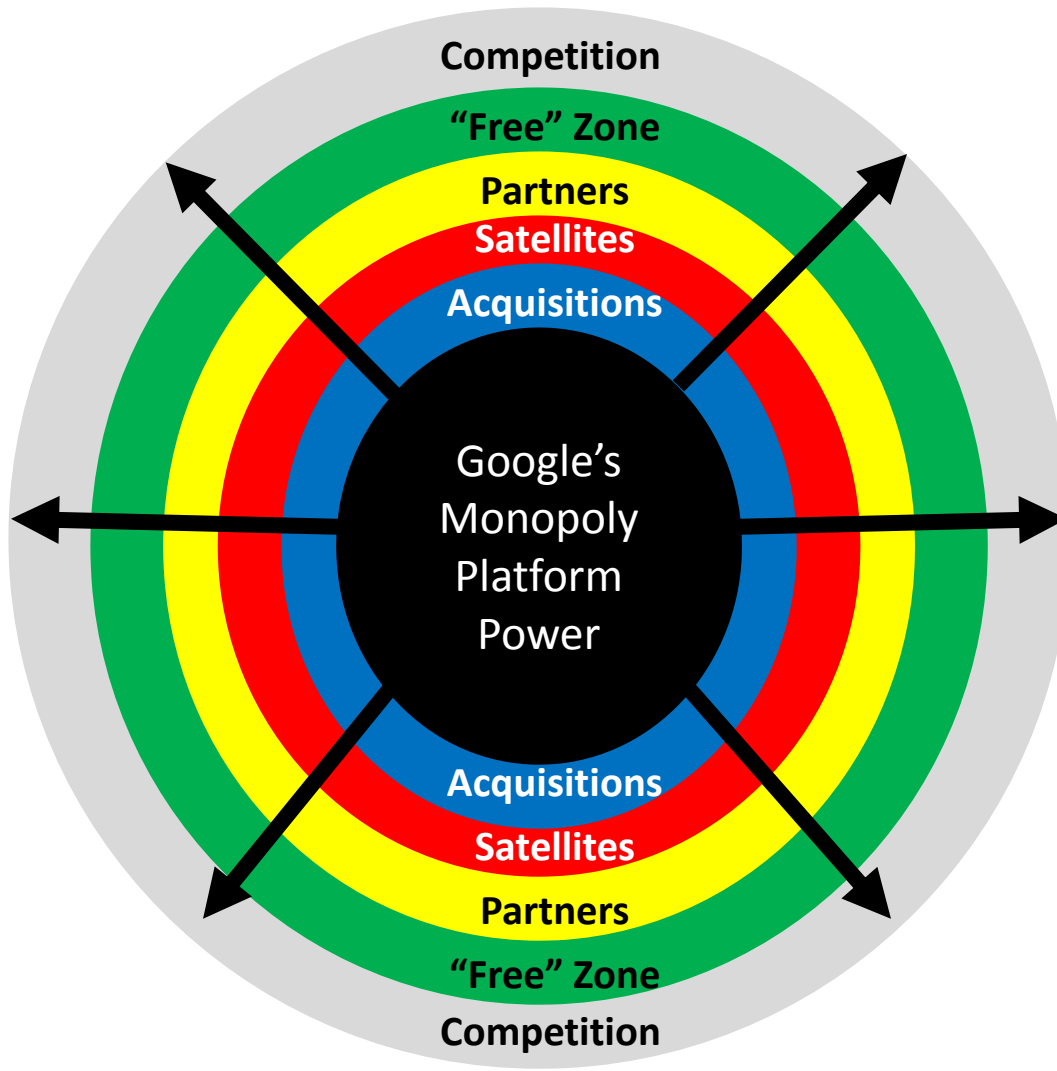
4. How Are Consumers & Innovation Harmed by Google?

- **How does Googleopoly harm consumers?**
 - Google systematically misrepresents itself to the public as *working for* users, and caring first and foremost for users' interests, in order to gain consumers' trust, when in fact users are the *product* Google sells to advertisers/publishers.
 - The fact is Google is an advertiser-aligned, advertiser-funded model as virtually all of Google's revenues come from their advertiser and publisher customer clients, and is not user-aligned as Google's search, products and services are free.
 - Google's deceptive trade practice is the equivalent of: a real estate broker, who works for the seller, representing oneself as working in the buyers' interest; or a doctor that advises a patient to undergo expensive dangerous tests without disclosing their financial interest in the testing facility. (In March, the FTC sanctioned Google for Section 5 deceptive privacy practices.)
 - The consumer harm is that Google has deceived consumers to believe Google is user-aligned, and thus consumers: can trust Google to not bias its search results in favor of Google or Google's advertisers interests, and also can trust Google to safeguard their privacy when in fact it is Google's business model to maximally leverage consumer privacy for financial gain.
- **How is the consumer harmed from more Google innovation?**
 - The problem is not Google's innovation, but how Google anti-competitively torpedoes innovation by the rest of the market.
 - By leveraging its search advertising monopoly to subsidize 500+ free Google products/services, Google's advertiser-aligned monopoly model destroys user-aligned/user-paid, product/services innovations in privacy/security/customer service.
 - Most investors ask start-ups seeking funding: "what happens if Google copies it?" Googleopoly kills innovators in the crib.
 - Google leverages the market inside information its monopoly generates to spot trends that identify earliest emerging "first movers," so Google can buy them before they can become a competitive threat. Google has made 98 acquisitions to date.
- **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, analytics, comparison tools, and many others, remain competitive, independent, and user-aligned.
 - Undercutting quality paid-for products or services with free ones (based on advertising or cross-subsidization) **can harm consumers by defunding consumer value and protection: i.e. responsive customer service, privacy/security protections.**
 - Free, one-sided analytics that are not independent of Google foster a rigged game, allowing Google to be the only player that owns the referee and scorekeeper, so that future products and services need not operate in the interests of users.
 - A Googleopoly that only promotes free ad-funded content undermines higher-quality, specialized, user-paid-for content.
 - Competitive products/services can never fairly compete, if Googleopoly routinely claims the #1 spot worth 34% of all clicks.

5. What Makes Google's Monopoly Lasting?

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

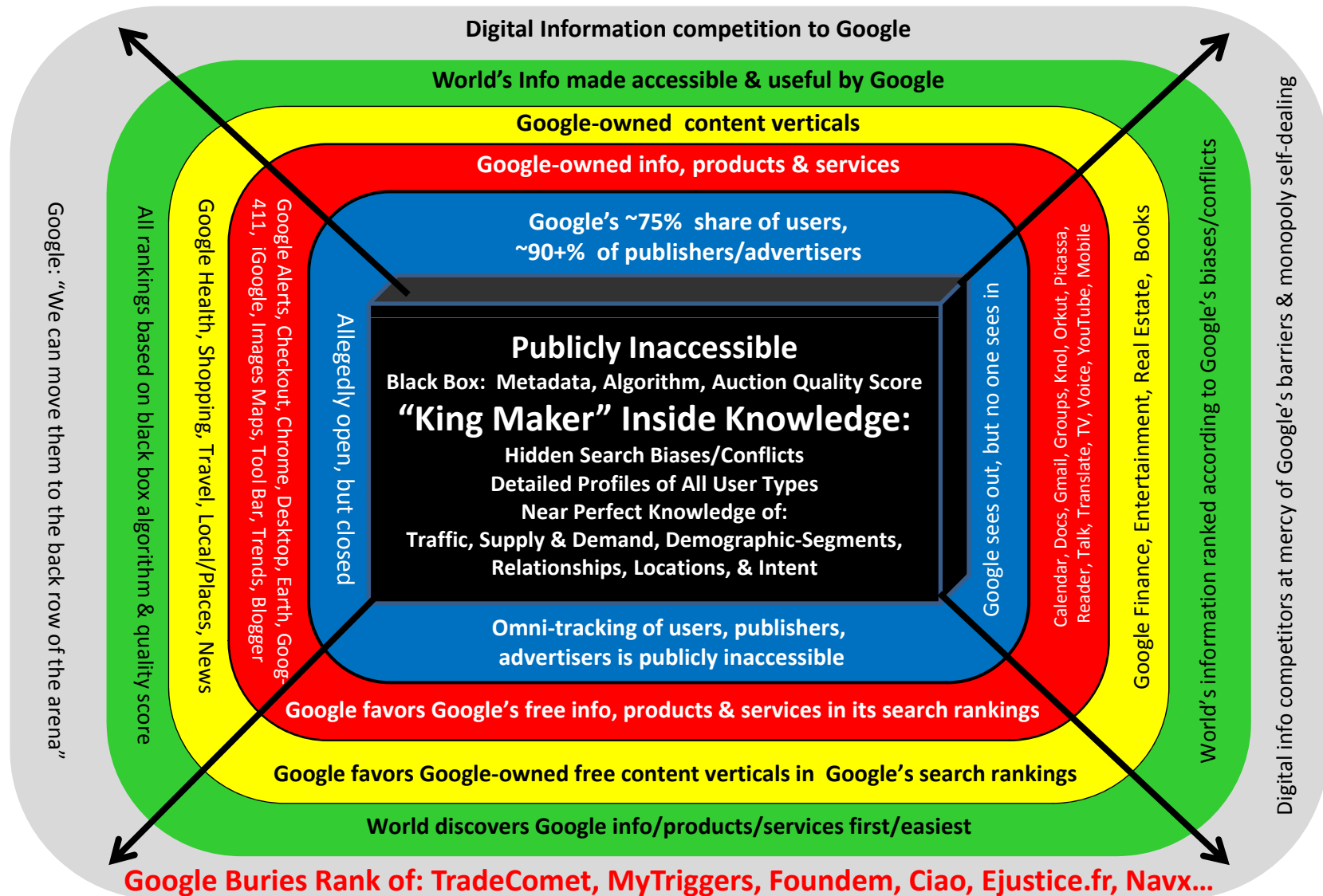
"I think the solution is tighter integration. In other words, we can do this without making an acquisition. The term I've been using is 'merge without merging.' The Web allows you to do that, where you can get the Web systems of both organizations fairly well integrated, and you don't have to do it on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



<p>Black Box Monopoly Platform: Search Engine; Auctions; Quality Score "Human Raters;" Exclusive info/ Metadata</p>
<p>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</p>
<p>Satellite companies dependent on Google for search monetization: AOL, MySpace, Ask.com, Craigslist, and thousands of popular websites</p>
<p>Partners: Tens of thousands of AdWords and AdSense advertisers and publishers share revenues derived from Google's opaque pay-per-click "auction" model</p>
<p>500+ Free Google Content, Products & Services: Search, YouTube, Android, Chrome, Earth, Maps, StreetView, Places, News, Shopping, Gmail, Books, Finance, Advisor, Wallet, Checkout, Travel, Translate, Blogs, Calendar, Docs, Reader, Sites, Groups, Alerts, Desktop, Health, Orkut, Picassa, Voice, etc.</p>
<p>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</p>

6. How Does Google Search Discriminate Against Competitors?

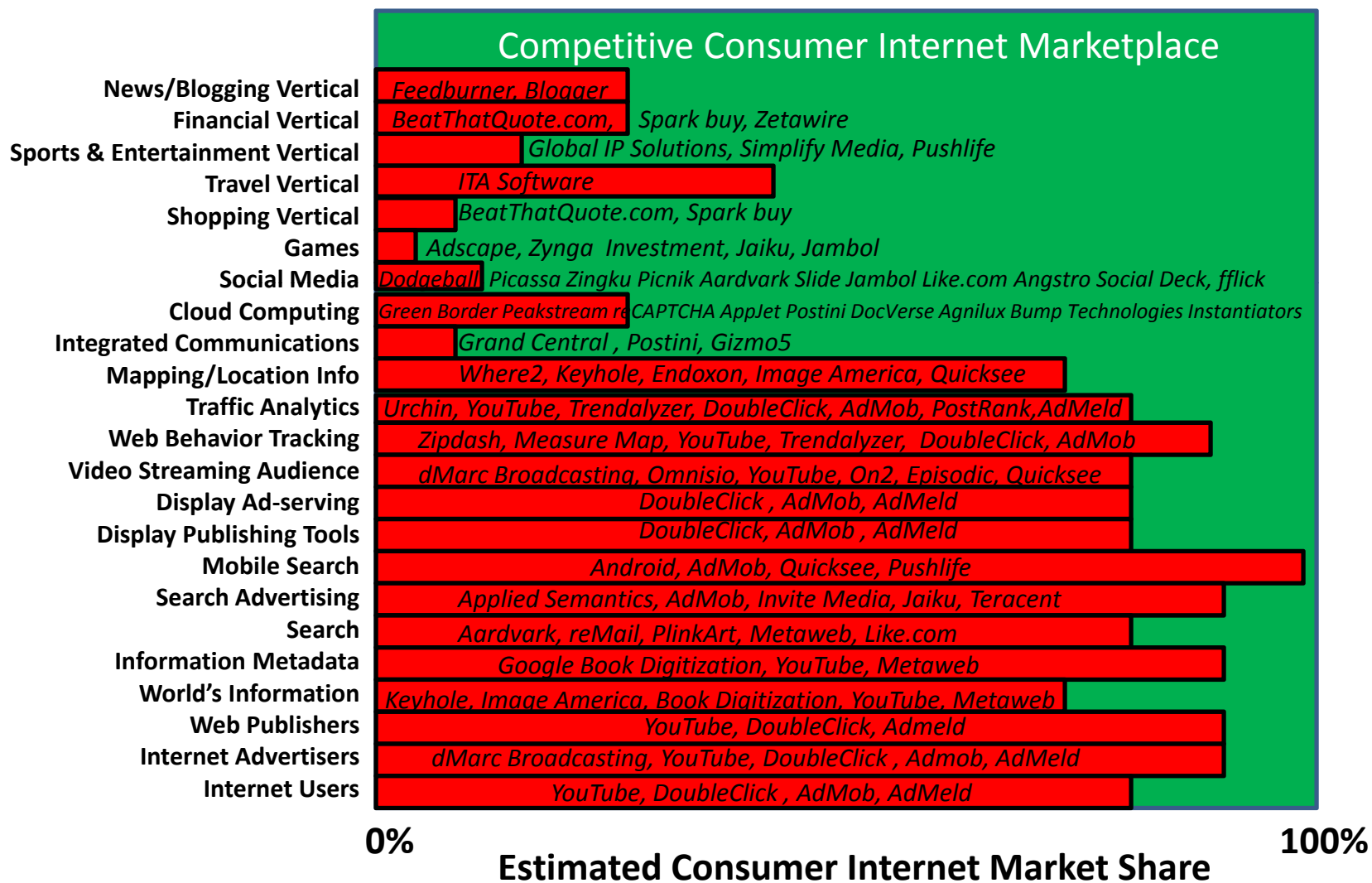
Google's Rapidly Extending its Monopoly Via Search-Favored & Free: Google Information, Products & Services Can't compete with a search monopoly that ranks/advertises its own info, products & services above everyone else's
 "Search is critical. If you are not found, the rest cannot follow." Santiago de la Mora, Google Executive, 8-23-09



7. How Have Google's 98 Acquisitions Foreclosed Competition?

Google's racing to extend its monopoly before the lax antitrust enforcement window closes

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



8. What is 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 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.
- **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 & controls 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.

9. How Can One Explain Google Antitrust Problem to Non-Expert?

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

10. Why is Google's Denial of Conflicts an FTC Section 5 Deceptive & Unfair Competition Practice?

- 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 represents that it works for, but who don't pay Google for most anything?
 - Google advertisers who actually are Google's real customers?
 - 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.

Appendix A: How Google is Systemically Anti-Competitive

Consumer Internet Ecosystem
Building Block
Capability “Stack”

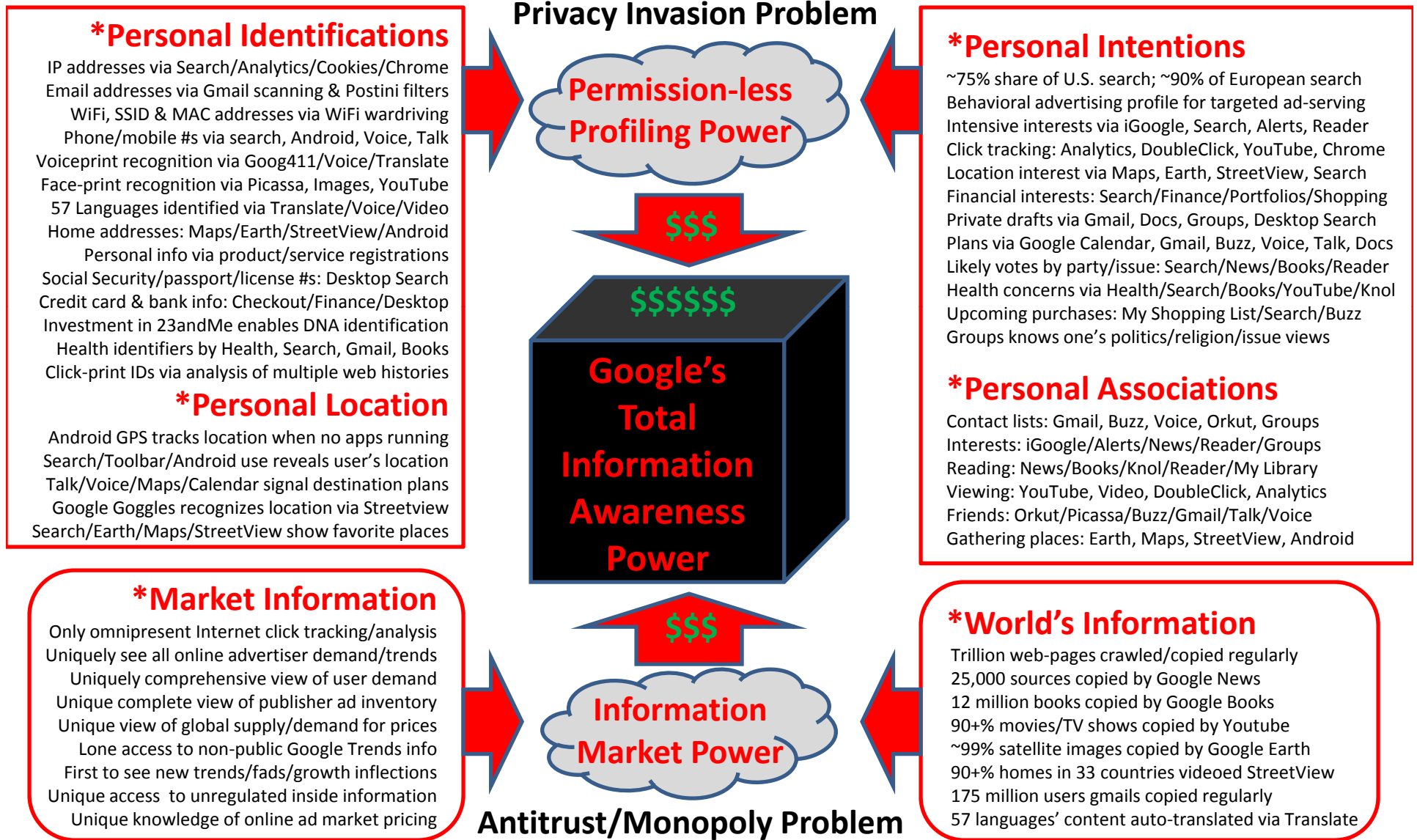
**How Google Abuses its Platform Monopoly
To Harm the Consumer Internet Media Ecosystem**

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 Internet Behavior Omniscience	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.
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 Internet Omnipresence	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. 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: <i>“The seller of an incomplete database... cannot compete effectively with the seller of a comprehensive product.”</i> Google actively prevents competitors from crawling some of the largest stores of the World’s information – YouTube’s videos, Google’s Maps & ~15 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

B: 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



Appendix C: Bio: Scott Cleland, President, Precursor[®] LLC

- **Bio:** Scott Cleland is a precursor: a research analyst with a track record of industry firsts and a history of spotlighting harmful industry behavior and misrepresentation. Cleland is President of Precursor[®] LLC, a Fortune 500 research consultancy focused on the future of Internet competition, privacy, security, property rights, innovation and algorithmic markets. Scott Cleland is author of the book: *Search & Destroy: Why You Can't Trust Google Inc.* Cleland also authors the widely-read www.PrecursorBlog.com; publishes www.GoogleMonitor.com; and serves as Chairman of www.NetCompetition.org, a pro-competition e-forum supported by broadband interests. Eight Congressional subcommittees have sought Cleland's expert testimony and *Institutional Investor* twice ranked him the #1 independent telecom analyst. Scott Cleland has been profiled in *Fortune*, *National Journal*, *Barrons*, *WSJ's Smart Money*, and *Investors Business Daily*. Cleland's Full Biography can be found at: www.ScottCleland.com
- **Scott Cleland's Three Congressional Testimonies on Google:**
 1. Before the Senate Judiciary Subcommittee on Antitrust on the Google-DoubleClick Merger, September 27, 2007. http://googleopoly.net/cleland_testimony_092707.pdf
 2. 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
 3. Before House Judiciary Antitrust Subcommittee, on Evolving Digital Marketplace, September 16, 2010. http://www.googleopoly.net/Written_Testimony_House_Judiciary_Competition_Subcommittee_9-16-10.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 D: www.Googleopoly.net Research

Googleopoly Research Series:

- Googleopoly I: The Google-DoubleClick Anti-competitive Case -- 2007
 - <http://googleopoly.net/merger.html>
- Googleopoly II: Google's Predatory Playbook to Thwart Competition -- 2008
 - http://googleopoly.net/googleopoly_2.pdf
- Googleopoly III: Dependency: The Crux of the Google-Yahoo Ad Agreement Problem -- 2008
 - http://googleopoly.net/googleopoly_3_dependency.pdf
- Googleopoly IV: How Google Extends its Search Monopoly to Monopsony Control over Digital Info-- 2009
 - 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 -- 2009
 - http://www.googleopoly.net/Why_The_FTC_Should_Block_Google.pdf
 - Chart: Google-AdMob Monopoly Bottleneck Chart http://googleopoly.net/merger_to_monopoly.pdf
- Googleopoly VI: Seeing the Big Picture: How Google is Monopolizing Consumer Internet Media --2010
 - http://googleopoly.net/Googleopoly_VI_Presentation.pdf
- Googleopoly VII: Monopolizing Location Services – Why Skyhook is Google's Netscape --2011
 - http://www.googleopoly.net/Skyhook_Wireless_is_GooglesNetscape_Googleopoly_VII_Monopolizing_Location_Services.pdf

Please visit: www.GoogleMonitor.com or www.SearchAndDestroyBook.com for more info.