Ms Neelie Kroes
Commissioner
EUROPEAN COMMISSION
Rue de la Loi 200

1049 Bruxelles

Ref.: CKU/2007118/rsa

27 June 2007

Proposed acquisition of DoubleClick by Google

Dear Commissioner,

We are writing to you on behalf of BEUC, and our members Altroconsumo, OCU and vzbv to express concerns regarding the proposed acquisition of DoubleClick by Google. We urge that these concerns be taken fully into account in the analysis carried out by the Commission or any other competition authority in the EU.

We are concerned in particular that the proposed transaction may have a negative impact on the selection of online content available to consumers and on privacy. We recall here the Commission *Notice on Horizontal Mergers* (OJ 2004 C 31, pp. 5-18, specially paragraph 8), according to which merger control is aimed at preventing mergers that are likely to deprive consumers of the benefits of effective competition, including not only low prices but also "*high quality products, a wide selection of goods and services, and innovation*".

According to the information available to us it seems that, through its acquisition of DoubleClick, Google could monopolize the on-line advertising business, thereby restricting competition and raising privacy concerns over control of consumer data.

Just as Microsoft dominates office applications through its operating system, we fear that Google will vertically-leverage (bundle/tie) its keyword search dominance with DoubleClick's leadership in online banner/video display advertising, and with its Google-YouTube dominance in video search. This vertical combination could give Google-DoubleClick clear dominance on the overall market for advertisements provided to third-party websites. Google alone currently holds a 90% share of the search market in Germany, nearly a 75% in the U.K., around 82% share in France and 90% in Spain.

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Beyond the dominant position in online advertising and the effects that these may have for the undertakings present on those markets, this market power could have a negative impact on the diversity of content available online (broadly meaning content available via PC, mobile, interactive TV).

Since it would be practically impossible for users after the merger to avoid all web sites serving Google/DoubleClick ads, consumers would have no real ability to choose services other than those served by Google, or to simply opt-out of sharing personal data with Google. To put it in simple words, a website will have to be part of the Google network of content sites if they are to be viable and visible in the commercial market. The European Commission has already taken into account the interests of consumers with regard to consumer choice even in culture-related markets, such as in its decision of 20 September 1995 in case IV/M.553 - *RTL/Veronica /Endemol*. Therefore, we urge the Commission and the rest of authorities integrated in the ECN not to neglect these considerations.

A further clear prejudice for consumers relates to privacy. The combination of Google and DoubleClick entails that, in an unprecedented fashion, a single company will obtain and exploit enormous amounts of personal information about users, by building profiles of consumers as they engage in searches, mining data from them as they use web services and applications, and observing and tracking them as they visit sites across the web. Indeed, both Google and DoubleClick employ sophisticated technology to gather and mine data about consumers, and most consumers are not aware of when and how these technologies are being used. Both companies collect information about users from different and, in the user's mind, unrelated web activities (such as mail and messaging, electronic payment, user-generated video exchanges, etc.). With the acquisition of DoubleClick, Google will combine two largely complementary existing databases.

Never before has one single company had the market and technological power to collect and exploit so much information about what a user does on the Internet. With DoubleClick's cookie-tracking technologies, and Google's ever-increasing breadth of online services (from mail and messaging, to mapping, electronic payment, office applications, user-generated video and blogging spaces, and so on), a particular user's online activities will be tractable by a single entity on a much more continuous and universal level than ever before. Such span of visibility into consumer behaviour will allow Google to build user profiles which are much more complete, and in turn valuable to advertisers.

The unprecedented and unmatched databases of user profiles will constitute significant and possibly insurmountable barriers to entry but they appear also to be in clear violation of users' privacy rights. Consumers who may have voluntarily agreed to private data to DoubleClick could not have envisaged that this data would be transferred to Google – and vice versa for those consumers who gave data voluntarily to Google. (For consumers who did not know that Google or DoubleClick had access to their personal data, the situation would be even worse, of course.)

The dominant position arising from the combination of Google and DoubleClick would further reduce the combined entity's incentives to protect privacy.

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The monopoly power that Google will acquire through this acquisition will further weaken its incentives to compete on the non-price aspects of its services, including such quality factors as the privacy protections it offers consumers. Indeed, Google's own stated ambitions are to establish integrated on-line profiles of internet users, to enable it to provide customized content, highly targeted advertising, and individualized recommendations for new services and content. This will vastly diminish a user's ability to selectively limit their consent to use certain pieces of personal information to specific purposes or at least control access to this information.

All these concerns regarding the prejudice that the transaction may have for consumers and for their privacy should be addressed by the competition authorities dealing with the case. We therefore urge you to communicate our concerns to the authorities and bodies concerned within the ECN to ensure that the interest of consumers and their right to privacy and data protection are properly taken into consideration within the merger review process.

Please note that US consumer agencies have raised several of these same concerns with the US FTC.

Yours sincerely,

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BEUC Director

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Carlos Sanchez Reyes
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<u>Cc</u>: Franco Frattini, Commissioner
Viviane Reding, Commissioner
Peter Schaar, Chairmen of the Article 29 Working Party
Peter Hustinx, European Data Protection Supervisor
Juan Antonio Rivière Martí, Consumer Liaison Officer, DG Competition
Johannes Luebking, DG Competition
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