Antitrust now a battleground for Google and foes

Fierce lobbying and skeptical officials greet the search king's plan to purchase DoubleClick.

By Jim Puzzanghera, Los Angeles Times Staff Writer
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WASHINGTON — Opponents see one last chance to cut Google Inc. off at the pass before the Internet giant attains total dominance -- by staging an old-fashioned regulatory ambush.

The behind-the-scenes battle over federal approval of Google's proposed $3.1-billion acquisition of DoubleClick Inc. could shape the Internet's future. At stake: control of the growing online advertising market, estimated at $21.7 billion this year.

"Google dominates half the online ad market. It wants the other half," said Jeffrey Chester, executive director of the Center for Digital Democracy, which has joined other public-interest groups in asking the Federal Trade Commission to block the deal unless privacy safeguards are put in place. "Once it does that, it is unstoppable."

Blair Levin, an analyst at brokerage Stifel, Nicolaus & Co., said competitors such as Microsoft Corp. are trying to take advantage of the edge they have over Google in the nation's capital. The Mountain View, Calif.-based company is a relative newcomer to Washington. Competitors and public interest groups sprung into action this year, when Google moved to solidify its dominance as the leading Internet search engine and provider of text ads by purchasing DoubleClick, a leading online advertising firm. Led by Microsoft, which lost out in the bidding for DoubleClick, they complained to federal officials that Google was on the verge of amassing too much power over Internet advertising and the trove of personal information that comes with it.

"By putting together a single company that will control virtually the entire market. . . Google will control the economic fuel of the Internet," Microsoft General Counsel Bradford L. Smith said two days after the purchase was announced. Microsoft was joined in the fight by AT&T Inc., which increasingly sees Google as a competitor in the online and wireless markets.

The Federal Trade Commission announced in May that it had launched an antitrust review of the deal. The European Commission said recently that it would conduct a review as well. Key Senate and House lawmakers plan to hold hearings.

"This is the first time where government actually holds the key to Google moving forward," Levin said. He believes the FTC would approve the deal but possibly with conditions that would limit Google's ability to access DoubleClick's data about customers. That would make the acquisition less valuable.

Google makes its fortune by selling targeted text advertisements. They appear alongside results from its search engine and on thousands of websites, which contract with Google and share the revenue from those ads. Google is likely to capture 27.4% of the online advertising market this year, according to EMarketer.

DoubleClick doesn't sell ads but provides software that delivers large, display advertisements -- the ones with pictures and graphics that appear at the top of websites or in pop-up windows -- and tracks who sees them. Both companies gather information about users to better target advertisements.

Display ads are claiming a growing share of the online market, 22% last year, up from 20% in 2005, according to the Internet Advertising Revenue Report. So large Internet companies have been scrambling to buy online ad firms.
Google has argued that the market is still evolving, pointing to the deals done by competitors in the wake of its April purchase agreement with DoubleClick, which sold for only $1.1 billion two years ago.

In May, Microsoft spent $6 billion for AQuantive. Yahoo and AOL also have made purchases recently to shore up their online advertising activities.

"Given the robust competition in the online advertising space -- which we see fresh evidence of nearly every week -- we are confident that the FTC will ultimately conclude that this acquisition poses no risk to competition and should be approved," said Google's policy counsel, Pablo Chavez.

Google has expanded its Washington presence and now has five senior lobbyists on staff. To help make its case with regulators, Google also hired the law firm of Brownstein Hyatt Farber Schreck, lobbying records show. Among its lobbyists is Makan Delrahim, who was deputy assistant attorney general in the antitrust division of the Justice Department from 2003 to 2005.

But Google's opponents are working hard against the deal.

Scott Cleland, president of Precursor, a technology research and consulting firm, produced a 35-page study arguing that Google and DoubleClick are really the only competitors in a broader market of "targeted online advertising," which he defines as selling or delivering advertising based on information collected from Internet users.

If the deal goes through, the Internet will be dominated by what he calls a "Googleopoly." He illustrated the threat with a menacing spider at the top of his new website, googleopoly.net.

"The more people learn about this merger, the more concern is going to develop," Cleland said.

Cleland is a leading anti-Google voice in Washington, where he worked for large telephone and cable TV companies last year to help defeat Google's push for laws prohibiting toll lanes on the Internet, an issue known as network neutrality. Google doesn't want to pay a premium to deliver data-heavy content, such as video, but phone and cable owners would like to charge websites for faster downloads through their pipes.

He said he did the Google-DoubleClick study on his own.

Rep. Bobby L. Rush (D-Ill.), one of the few Democrats who opposed Google on network neutrality, plans to hold a hearing as chairman of the House commerce, trade and consumer protection subcommittee.

"This combination of corporations would result in the creation of the single most powerful and pervasive reservoir of personal data information in the history of the world," Rush said. "What kind of safeguards are there to protect the personal data of the American consumer?"

Sen. Herb Kohl (D-Wis.), chairman of the Senate antitrust, competition policy and consumer rights subcommittee, also will hold a hearing this fall, an aide said.

Software giant Microsoft, which has been trying to expand its Internet presence, has been one of the few companies to publicly speak out against the deal.

"If one company is allowed to buy up its competitors and secure the lion's share of the marketplace, it will become very difficult for anyone else to have anything but a toehold," Smith said. "I believe Google's proposed purchase of DoubleClick raises the specter of precisely that kind of outcome."

Some find it ironic that Microsoft, which was the subject of antitrust actions by the federal government in the 1990s, is now looking to Washington for help. Although regulators look skeptically at complaints by competitors, Microsoft is doing "a very solid job" of providing them with information about the online advertising market, analyst Levin said.

For Google's competitors, the regulatory review of the DoubleClick purchase is an opportunity to slow down the Internet juggernaut, he said. "This is the first time that Google has to really play defense, from a regulatory point of view," Levin said.

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