# *Public Competition Assessment*

***6 December 2007***

## *Google Inc - proposed acquisition of DoubleClick Inc*

**Introduction**

1. On 30 October 2007, the Australian Competition and Consumer Commission (**ACCC**) announced its decision not to oppose the proposed acquisition of DoubleClick Inc (**DoubleClick**) by Google Inc (**Google**) (**proposed acquisition**). The ACCC was of the view that the proposed acquisition would be unlikely to have the effect of substantially lessening competition in any relevant Australian market in contravention of section 50 of the *Trade Practices Act 1974* (the **Act**).

2. The ACCC formed its view on the basis of the information provided by the merger parties and information arising from its market inquiries. This Public Competition Assessment outlines the basis on which the ACCC has reached its decision on the proposed acquisition, subject to confidentiality considerations.

**Public Competition Assessment**

3. To provide an enhanced level of transparency and procedural fairness in its decision making process, the ACCC issues a Public Competition Assessment for all transaction proposals where:

   - a merger is opposed;
   - a merger is subject to enforceable undertakings;
   - the merger parties seek such disclosure; or
   - a merger is approved but raises important issues that the ACCC considers should be made public.

4. This Public Competition Assessment has been issued because Google's proposed acquisition of DoubleClick raised issues of interest to the public.

5. By issuing Public Competition Assessments, the ACCC aims to provide the public with a better understanding of the ACCC's analysis of various markets and the associated merger and competition issues. It also alerts the public to the circumstances where the ACCC's assessment of the competition conditions in particular markets is changing, or likely to change, because of developments.

6. Each Public Competition Assessment is specific to the particular transaction under review by the ACCC. While some transaction proposals may involve the same or related markets, it should not be assumed that the analysis and decision outlined in one Public Competition Assessment will be conclusive of the ACCC's view in respect of other transaction proposals, as each matter will be considered on its own merits.

7. Many of the ACCC's decisions will involve consideration of both non-confidential and confidential information provided by the merger parties and market participants. In order to maintain the confidentiality of particular information, Public Competition Assessments do not contain any confidential information or its sources. While the ACCC aims to provide an appropriately detailed explanation of the basis for the ACCC decision, maintaining confidentiality will be the ACCC's paramount concern. Accordingly, a Public Competition Assessment may not definitively explain the analysis of all issues.

## The parties

*The acquirer: Google Inc*

8. Google is a US-based information technology company. Its principal activities are the sale of online advertising space on its search engine website www.google.com (and equivalent national sites such as www.google.com.au), other websites published by Google such as YouTube, and the sale of online advertising space on third party websites via affiliation agreements.

9. In Australia, Google's products include:

   - AdWords – a product that allows advertisers to place advertisements on Google's websites and Google's network of third party websites.

   - AdSense – a product that allows website publishers to join Google's network to display advertisements supplied by AdWords customers on their website.

   - Analytics – a free program that assists website publishers in determining how people find that publisher's websites, how they navigate through them and how they become customers of that publisher. It also assists advertisers in analysing and understanding the performance of search campaigns on Google's search engine.

10. Google operates in Australia via its wholly-owned subsidiary, Google Australia Pty Ltd.

*The target: DoubleClick Inc*

11. DoubleClick is a US-based technology company. Its principal activities are the provision of advertising serving (**ad serving**) and reporting services to advertisers and publishers.

12. DoubleClick offers the following products in Australia:

- DART for Advertisers (DFA) – software that allows advertisers' advertisements to be displayed across multiple websites. This software also provides reports to advertisers regarding the effectiveness of advertisements and advertising campaigns.

- DART for Publishers (DFP) – software that allows website publishers to display advertisements on their websites. This software also provides reports to publishers about user behaviour on their websites and the effectiveness of advertisements on websites.

- DART for Search (DFS) – software that assists advertisers to manage advertising campaigns across multiple search engines.

13. DoubleClick operates in Australia via its wholly-owned subsidiary, DoubleClick Australia Pty Ltd.

**Timing**

14. The following table outlines the timeline of key events in this matter.

| Date | Event |
|---|---|
| 22-Aug-2007 | ACCC commenced review under the Merger Review Process Guidelines. |
| 11-Sep-2007 | Closing date for submissions from interested parties. |
| 09-Oct-2007 | Timeline extended by 2 weeks (from 16 October 2007) at request of ACCC to allow additional time to consider new information. |
| 30-Oct-2007 | ACCC announced it would not oppose the proposed acquisition. |

**Market inquiries**

15. The ACCC conducted market inquiries with a range of industry participants, including competitors, advertisers, website publishers, industry bodies, other regulatory agencies and other interested parties. Submissions were sought in relation to the substantive competition issues.

**Industry background**

16. The online advertising sector comprises:

- advertisers (or advertising agencies), who pay for advertising space on websites;

- website publishers, who supply advertising space on their websites;

- firms that supply ad serving services ("ad servers") – that is, software that enables website publishers to supply online advertising space, and advertisers to acquire it; and

- firms that supply search engine marketing (SEM) software.

**Relevant Markets**

17. The ACCC considered the relevant markets in this matter to be:

- the Australian market for the supply of ad serving products designed for, and supplied to, publishers;
- the Australian market for the supply of ad serving products designed for, and supplied to, advertisers; and
- the Australian market for the supply of search engine marketing (SEM) software.

18. These markets are focused upon online advertising. The ACCC considered that if the proposed merger would be unlikely to substantially lessen competition in these markets, then it would not necessary to consider broader advertising markets.

*Ad serving for publishers*

19. Website publishers seek to maximise revenues generated by their sites by attracting the highest value advertisements they can. This process is referred to as ‘monetisation’.

20. For publishers, ad servers are the hardware, software and personnel which:

- enable publishers to display graphical advertising (visual and audio-visual images) on their websites; and
- provide reports about how particular advertisements are performing. For example, ad servers can report on the frequency with which internet users click on an advertisement and move through to other websites.

21. Publisher-side ad servers are usually paid a fixed amount for every 1,000 times a graphical advertisement appears on a publisher’s website. This basis of pricing is known as ‘**cpm**’.

*Ad serving for advertisers*

22. Advertisers’ ad servers comprise the hardware, software and personnel which enable them to send graphic advertisements to publishers’ websites, as well as provide reports to advertisers regarding how their ad campaigns are performing across multiple websites.

23. Unlike publisher-side ad servers, advertiser-side ad servers do not have a role in deciding which advertisements will be displayed on a website at any given time. Rather, they deliver specific advertisements which have been requested by a website (via the website’s publisher-side ad server).

24. Advertiser-side ad servers are usually paid a fixed amount for every 1,000 times an advertisement appears on a third party website.

25. A number of companies supply both publisher-side and advertiser-side ad serving operations in Australia. These include DoubleClick, Accipiter (which is owned by Microsoft) 24/7 Real Media (owned by WPP Media), and Facilitate Digital. There are also a number of ad servers that specialise in either publisher or advertiser side ad serving.

26. Market inquiries revealed that some market participants do provide ad serving to both publishers and advertisers, and that both types of ad servers use similar software. Therefore, the ACCC considered the possibility of supply side substitution and that publisher and advertiser ad serving may form part of the same market.

27. The ACCC considered that publisher-side and advertiser-side ad serving may comprise one or two relevant markets, although it did not find it necessary to come to a definitive conclusion on this matter. However, the ACCC proceeded from the conservative view that they comprised separate markets; if no competition issues arose on this basis, then they would also be unlikely to arise on the more liberal view that they formed part of the same market.

*Is Google in the same ad serving markets as DoubleClick?*

28. Google's products, AdSense and AdWords, allow publishers and advertisers, respectively, to display predominantly text-based advertisements on websites, and Google provides ad serving to both publishers and advertisers as part of these products.

29. As well as serving ads via AdSense and AdWords, Google also acts as the intermediary between publishers and advertisers for the sales and purchases of advertising space on third party websites. AdSense customers therefore do not negotiate with advertisers for the sale of advertising space; Google does this on their behalf. Likewise, AdWords customers do not negotiate with publishers because Google does this as well.

30. DoubleClick predominantly serves graphical advertisements, whereas Google serves predominantly text-based advertisements. DoubleClick offers 'stand alone' ad serving products and has no involvement in commercial negotiations between publishers and advertisers. Publishers and advertisers negotiate the terms of an advertising campaign and DoubleClick's DFA and DFP products are simply the tools used by publishers and advertisers to deliver the advertisements to a specific space on a website.

31. In contrast to DoubleClick's ad serving products, AdWords and AdSense are not stand-alone ad serving products – they are integrated with Google's role as an intermediary between publishers and advertisers for the sale and purchase of advertising space. Therefore, Google does not compete for serving ads that are directly sold by the publisher to an advertiser or indirectly between an ad network and an advertiser.

32. Further, Google's products predominantly involve the display of text based ads rather than graphical ads.

33. The technical characteristics of Google and DoubleClick's ad serving products, and the fact that publishers and advertisers do choose between text and graphical advertisements to a certain extent, suggests that there are elements of demand-side and supply-side substitutability between Google and DoubleClick and therefore their products could be considered as being in the same market.

Google as a potential entrant

34. The ACCC understands that Google is currently in the process of developing stand alone graphical ad serving products for publishers and advertisers. The ACCC understands that these products are still early in the development stages, and that there is substantial uncertainty surrounding when this product will be released for general distribution.

*Geographic dimension – supply of ad serving and SEM software*

35. Market inquiries indicated that ad serving and SEM software customers require that their suppliers have an Australian presence for handling sales and assistance such as help-desk inquiries. Ad-serving and SEM software suppliers that were based off-shore were not considered to be effective substitutes for local suppliers. Therefore, the ACCC considered that all relevant markets were national in scope.

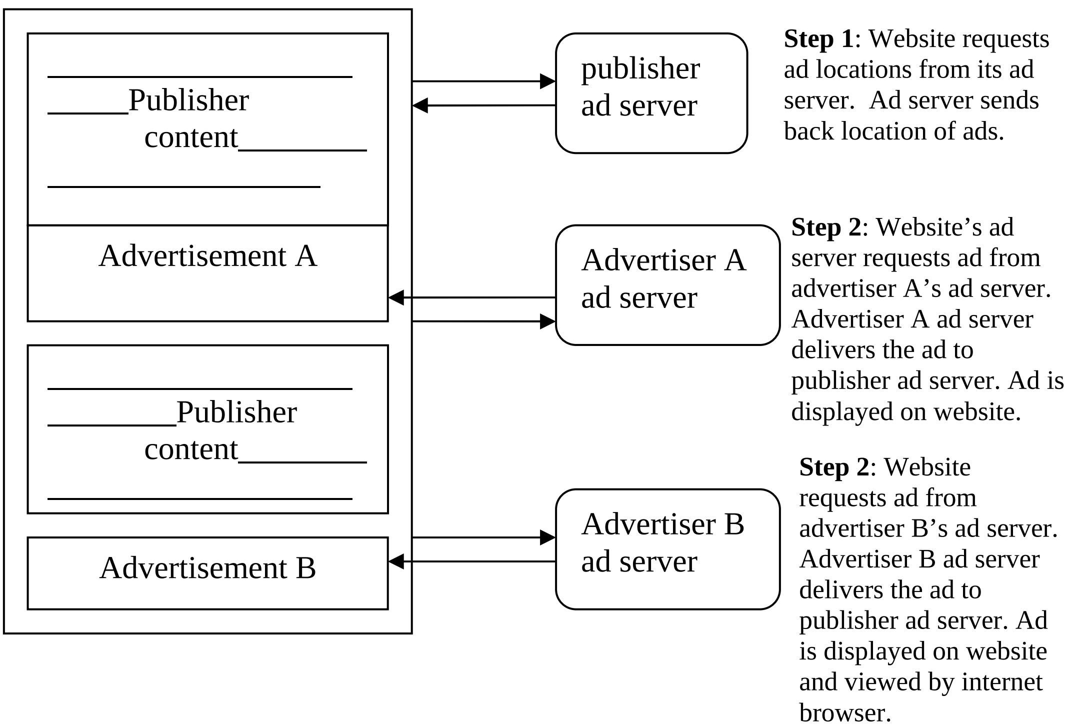
***Ad serving markets characteristics***

*Relationship between publisher-side and advertiser-side ad serving*

36. Where a publisher is able to display more than one advertisement in a particular part of its website[1], its ad server will decide which advertisement will be displayed. It makes this decision based on information including the relevant web content, the past behaviour of individual users visiting a website, geographic factors, and the content of the advertisement itself.

37. After deciding which advertisement will be displayed, the ad server makes a 'call' to the relevant advertiser's ad server to access the required advertisement. Once the advertisement is retrieved from the advertiser side, the publisher-side ad server delivers the advertisement to the publisher's website where it can be seen by an internet user.

38. A simplified diagram depicting the roles played by publisher and advertiser-side ad servers is shown below:




39. Market inquiries revealed that for publishers, inventory of highest value is usually sold via direct or indirect negotiation with advertisers and is known as premium inventory.

[1] Publishers often 'sell' one piece of inventory to more than one advertiser. Advertiser's do not pay a set fee, however, and are only charged when their ad actually appears. In this way, publishers are often able to display several different ads in one space.

40. Market inquiries revealed that text ads are used by publishers to ‘fill’ remnant inventory that has not has not already been populated by graphical advertising, or to fill new inventory that it has not yet been able to populate with graphical advertisements.

*Switching costs*

41. Market inquiries revealed that, for both publishers and advertisers, the costs associated with switching ad servers are significant (more so for publishers) but not insurmountable, such that publishers and advertisers could pursue a commercial incentive to switch ad servers.

42. In the case of publishers, switching ad servers involves recoding the publisher’s website to make it compatible with the new ad server. Market inquiries revealed that this process can be disruptive, especially for larger websites with many different web pages; however most publishers surveyed advised that such disruptions did not ultimately prevent them from switching ad servers when a need arose (such as reduced quality, increased prices, or the emergence of a superior product). Further, market inquiries revealed evidence of major website publishers having switched ad servers.

43. Advertisers do not face the same technical issue of recoding that publishers do, however market inquiries revealed that historical data regarding the performance of advertisements cannot be easily loaded into a new ad serving system. Advertisers use this data to plan for future campaigns and a loss of data can place an advertiser at a disadvantage.

44. Nevertheless, market participants indicated that, while an inconvenience, this was not a barrier to switching and can be overcome to some degree by manually loading historical data into the ad serving system. Further, market inquiries indicated that this data can lose its value over time as the new system records more up to date information.

45. The majority of publishers and advertisers advised that they would be likely to switch ad servers if presented with a commercial incentive such as increased prices or a reduction in quality.

*Barriers to entry*

46. Market inquiries indicated that barriers to entry for constructing publisher and advertiser ad serving software are not significant, particularly for ad servers wishing to serve small to medium websites. A major barrier to entry appeared to be winning customer contracts, which was likely to be somewhat influenced by the presence of varying degrees of switching costs (discussed above).

47. For ad servers wishing to service large websites, barriers are likely to be high. According to market participants, this is because it is more difficult to develop software that can be ‘scaled’ to meet the requirements of larger websites.

48. As such, the ACCC considered that barriers to entry were likely to be moderate for small companies wishing to service small to medium sized websites, and higher for those seeking to serve large websites.

***Competition analysis – ad serving markets***

<u>Horizontal aggregation – ad serving</u>

49. As noted earlier in this document, Google's (integrated) ad serving activities are largely confined to text-based advertising within the remnant inventory spaces sold by website publishers. Further, DoubleClick predominantly provides stand-alone graphical ad serving products to publishers and advertisers, while Google does not, meaning that it does not compete to provide ad serving services to publishers and advertisers who trade in directly sold advertising inventory. For these reasons, it was considered that Google and DoubleClick are not close competitors in the supply of ad serving products.

50. The ACCC also considered that a lack of close substitution between sales of premium and remnant inventory also minimised the extent to which the merger parties' ad serving capabilities overlap. This is explained in more detail below.

51. Market inquiries revealed that publishers prefer to monetise premium inventory via graphical and rich media advertising because these types of advertising earn the highest revenues. Text ads are used by publishers to 'fill' remnant inventory that has not has not already been populated by graphical advertising, or to fill new inventory that it has not yet been able to populate with graphical advertisements.

52. The vast majority of publishers surveyed during market inquiries revealed that, given the choice, they would monetise their inventory with graphical ads in preference to text ads, even if the revenues received from graphical ads decreased by 5-10%.

53. Therefore, the ACCC concluded that the manner in which publishers and advertisers allocate their advertising activities between text and graphical advertisements, and therefore use Google's and DoubleClick's ad serving capabilities barely overlap, such that there is very little trade-off between the merger parties' products by their respective customers, if any.

54. The ACCC therefore considered that the merger would be unlikely to give the merged entity the ability to raise the price of ad serving. The ACCC noted that, in the event that it did attempt to raise prices, the merged entity would be likely to lose customers to the other viable, effective competitors in both markets, who are also closer competitors for Google's and DoubleClick's respective activities.

55. Finally, the ACCC considered the possibility that the merger may halt Google from developing graphical ad serving products that might compete with DoubleClick, but due to the existence of a number of closer substitutes for DoubleClick's ad serving products, the ACCC did not consider that this was likely to give rise to competition concerns.

56. As such, the ACCC did not consider that the merger would lead to significant horizontal aggregation.

Conglomerate competition issues

57. The ACCC examined concerns that the proposed merger would enable the merged entity to:

- Operate publisher-side ad serving products in a discriminatory manner which would be to the benefit of Google's network of advertisers and the detriment of rival ad servers;

- Access confidential data about internet users through its ad serving functions, which would benefit Google as a seller of advertising space; and

- Sell bundles of ad serving products at price levels with which rival ad servers could not compete.

58. In the context of the above issues, the ACCC considered whether as a result of the merger, Google and DoubleClick's customers would have substantially fewer ad serving options, enabling the merged entity to ultimately increase the prices of ad serving and possibly also online advertising in the long term.

59. The ACCC noted that there are a number of alternative ad servers who are well-established, many with international operations, and sophisticated ad serving products. Although there are segments of the market where switching costs and barriers to entry are more pronounced than others, there are substantial strong competitors who would be difficult to dislodge from the market. The ACCC also observed evidence of very large website publishers switching between ad servers, and considered there was a strong possibility that publishers and advertisers would change ad servers in response to increased prices.

60. As such, the ACCC did not consider that the proposed merger was likely to substantially lessen competition in the relevant ad serving markets.

**Search advertising software market**

61. Advertisers bid on search terms entered into search engines to determine when their advertisements will be displayed. For example, a manufacturer of football boots may bid on search terms such as "soccer", "football" and other related terms in an attempt to reach its target audience. Where more than one advertiser bids on a search term, a combination of the price bid for the term and the popularity of the advertiser's website is often used to determine the order in which advertisements appear. These 'auctions' are continuous and the value of search terms, as set by the market, is constantly changing.

62. Often, search campaigns can involve bidding on hundreds or even thousands of search terms on a search engine. Software that assists advertisers (and advertising agencies) to design, implement and manage search campaigns is known as search engine marketing (**SEM**) software.

63. DoubleClick has a product called DART for Search (DFS). Google also has a free program called 'Analytics' that can be used to assist advertisers to manage search campaigns.

64. SEM software allow advertisers to keep track of how much is being paid for each search term at any given moment, report on the conversion rate of each search term[2] and calculate the ROI of search terms.

65. Another type of software, search engine optimisation (**SEO**) is also used by advertisers to maximise the traffic directed to their site by search engines. SEO software differs from SEM software, however, in that SEO software assists advertisers to improve their website so that it appears as early as possible in search results.

66. While these types of products are similar, however, the ACCC considered that they are more likely to be complements than substitutes, because SEM software involves designing and managing search advertising campaigns, whereas SEO software's purpose is more to do with website design.

*Conclusion*

67. The ACCC considered a relevant market to be the market for the development of SEM software.

***Market characteristics***

*Importance of Google's search engine*

68. SEM software assists advertisers to participate in the upstream search engine advertising market. In Australia, Google is the largest player in this market, accounting for over 85% of all searches performed in Australia.[3] Microsoft and Yahoo! are the next largest with approximately 6% and 2% respectively.[4]

69. Barriers to entry into this market, on a scale that would be competitive with Google, appear to be very high. The technology involved in developing and maintaining a search engine of the scale of Google's, Yahoo!'s or Microsoft's is highly complex and would take several years to develop.

70. Although switching costs appear to be low for search engine users, market inquiries revealed that advertisers generally do not perceive there to be a strong alternative to Google. Indeed, market inquiries revealed that there are some search engine advertising agencies which only provide marketing services to advertisers advertising on Google.

71. Generally, market inquiries revealed that Google is perceived to be a necessary input into the SEM software market, without access to which SEM software developers would probably be unable to remain viable.

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[2] The conversion rate of a search term is the percentage of time that a consumer enters into an online transaction directly after clicking on an advertisement generated by that search term.

[3] www.hitwise.com.au

[4] *ibid*

*Barriers to entry*

72. Market inquiries revealed that entry barriers were not high in this market. Market participants advised that the technology involved is not prohibitively complex and there is evidence of recent new entry.

*Competitors*

73. A number of competitors compete in this market, including DoubleClick, 24/7 Real Media and Accipiter. Google also has a free program called 'Analytics' which can be used to manage search advertising campaign on Google's search engine. However, many market participants expressed doubts as to whether this program is suitable for large advertising campaigns involving thousands of key words. As such, the ACCC considered that Analytics was a viable alternative for advertisers running small campaigns but became less competitive as the size of the campaign increased. It was not considered a viable alternative for large advertising campaigns.

***Competition analysis***

74. A number of market participants raised concerns that the merger would allow Google to discriminate against rival SEM software developers. According to those concerned, Google could do this by blocking or denying access to its search engine's Application Program Interface (**API**) or by tying or bundling AdWords with DFS.

*Blocking or hindering access to Google's API*

75. A search engine's API allows SEM programs to effectively interface with it. Among other things, it also allows SEM programs to upload very large search campaigns much faster than if this were to be done manually. A number of market participants advised that, without access to the API, the effectiveness of SEM software is severely affected. Given that access to Google's search engine is considered by many in the market to be essential to SEM software developers, the ACCC considered that this issue could be problematic.

76. Nevertheless, the ACCC came to the conclusion that this issue was unlikely to give rise to competition concerns.

77. First, Google may already have an incentive to deny SEM software developers access to its API because SEM software assists advertisers in maximising the results of their advertising spend which, by implication, could mean actually spending less on Google's search engine. However, not only has Google not sought to deny access, it actually gives away a product, Analytics, to assist advertisers to rationalise their spend.

78. Second, Google is likely to already have the ability to enter the SEM software market itself. Indeed, as the owner of a search engine, Google would be well-placed to do this. Further, it could further develop and market Analytics in order to enter this market.

79. As such, the ACCC did not consider that the merger would give the merged entity an added incentive or ability to foreclose rival SEM software developers.

*Bundling or tying AdWords with DFS*

80. A concern was raised that Google would attempt to tie AdWords with DFS, thus forcing advertisers to use DFS. However, as with the issue of blocking or hindering access to Google's APIs, the ACCC did not consider that the merger gave Google any added incentive or ability to engage in this behaviour.

81. The ACCC considered that, were Google minded to do so, it already probably has the incentive and ability to tie AdWords with Analytics. Google could tie AdWords with Analytics as it is or further develop Analytics and then tie AdWords to it.

82. As such, the ACCC did not consider this issue would be likely to give rise to competition concerns.

*Conclusion*

83. The ACCC did not consider that the merger would give rise to a substantial lessening of competition in the SEM software market.

## Conclusion

84. On the basis of the above, the ACCC formed the view that the proposed acquisition of DoubleClick by Google would not be likely to result in a substantial lessening of competition any Australian market in contravention of section 50 of the Act.