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Before the

FEDERAL TRADE COMMISSION

Washington, DC 20580

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In the Matter of Google, Inc.:)	
Request for Investigation and)	
Imposition of Fines and other)	**Docket No. C-4336**
Remedies for Violation of)	
"Google Buzz" Consent Decree)	

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The Center for Digital Democracy

22 February 2012

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The Center for Digital Democracy (CDD) respectfully petitions the Federal Trade Commission to review Google's recent announcement that it was changing its privacy policy effective March 1, 2012. CDD believes that Google is misleading its users about the real reasons it is integrating its "more than 70" privacy policies.[1] In the FTC's October 13, 2011, Decision and Order, Google is required to present its privacy policies "in an understandable language and syntax: and (2) include nothing contrary to, inconsistent with, or in mitigation of any other statements or disclosures provided by respondent." Further, Google is ordered "not represent in any manner, expressly or by implication: the purposes for which it collects and uses covered information, and (2) the extent to which consumers may exercise control over the collection, use, or disclosure of covered information." Google is also required to "obtain express affirmative consent from users before there is "sharing"

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[1] Google, "Updating Our Privacy Policies and Terms," Jan. 2012, http://googleblog.blogspot.com/2012/01/updating-our-privacy-policies-and-terms.html; "Google Privacy Policy Update," YouTube, 24 Jan. 2012, http://www.youtube.com/watch?feature=player_embedded&v=KGghlPmebCY (both viewed 20 Feb. 2012).

with third parties.[2] CDD urges the Commission to initiate legal proceedings under the Consent Decree and also seek to have Google postpone its pending March 1, 2012, privacy policy changes.

In Google's January 24, 2012, announcement on "Updating our privacy policies and terms of service," as well as its webpage "Overview" ("One Policy, One Google Experience"), users are not informed at all about how Google's own recent and emerging digital advertising and marketing practices are the driving force behind the policy change. Google fails to tell users in its principal privacy change communications how such data collection, profiling, and targeting practices impact—and potentially harm—their privacy. Google presents the information in a deceptive way that suggests consumers will benefit from the new policy. The Commission is obligated under the Consent Decree to ensure that consumers receive accurate information, and that Google not misrepresent the reasons for its Google privacy changes. Google's official Blog announcement, its video description, and subsequent descriptions all fail to provide the disclosures required under the consent decree.

We believe that an analysis of Google's business operations over the last year will demonstrate the true rationale for the changes to its privacy policy—which has nothing to do with making it "easier" or "more convenient" for users. We fail to see where Google has provided to users—as it claims to have done in its "Compliance Report" submitted to the commission—"clear information in order to exercise meaningful choice regarding their continued use of Google services…."[3] In particular, Google fails to inform its users that the new privacy regime is based on its own business imperatives: to address competition from Facebook; to grow its capacity to

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[2] Federal Trade Commission, "FTC Charges Deceptive Privacy Practices in Google's Rollout of Its Buzz Social Network," 30 Mar. 2011, http://www.ftc.gov/opa/2011/03/google.shtm (viewed 20 Feb. 2012).

[3] EPIC, "'FOIA Matters' - EPIC Obtains Google Privacy Compliance Report," 17 Feb. 2012, http://epic.org/2012/02/foia-matters---epic-obtains-go.html (viewed 20 Feb. 2012).

finely profile and target through audience buying; to collect, integrate, and utilize a user's information in order to expand its social media, social search, and mobile marketing activities (through YouTube, Google+, and Admob, for example); to extend the length of time during which users are subject to targeting and real-time auctions via its DoubleClick Ad Exchange and Display Network; to provide additional data points for its Teracent, Invite Media, and Admeld operations; and generally to expand its DoubleClick operations. Finally, Google should have explained to consumers what it told a private industry meeting—that to help fulfill its February 2011 prediction that display advertising will be a $200 billion dollar global industry, it would need to better integrate user data across platforms and application using digital ad marketing automation.[4]

In its petition, CDD will describe recent changes and developments in Google's user targeting and digital marketing operations, demonstrating how they are the driving force in why Google is changing its privacy policy. Google has failed to make such information available to its users—in violation of the Consent decree. It has sugar-coated its decision in a manner designed to mislead users. For example, its official announcement claims that the new policy actually *benefits* the user: "we'll treat you as a single user across all our products, which will mean a simpler, more intuitive Google experience… [in] our desire to create one beautifully simple and intuitive experience across Google…." Google's explanatory video starts off with the claim

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[4] "iab Annual Meeting: Live Blog!" AdExchanger.com27 Feb. 2011, http://www.adexchanger.com/online-advertising/iab-annual-meeting-live-blog/#es; "Google VP Mohan Speaks Display Ads, Invite Media At Conversational Marketing Summit," AdExchanger.com, 7 June 2011, http://www.adexchanger.com/event-coverage/conversational-marketing-summit/#invite; Johanna Werther & Ben Chung, "Better Together: New Insights on Display Ad Effectiveness Across Screens & Multi-screen Case Study," Google CPG Blog, 10 Oct. 2011, http://google-cpg.blogspot.com/2011/10/better-together-new-insights-on-display.html; Nicky Crane, "More Ways to Reach Your Audience with YouTube Mobile Ads," Google Mobile Ads Blog, 16 Nov. 2011, http://googlemobileads.blogspot.com/2011/11/more-ways-to-reach-your-audience-with.html; Google, "A Multi-Screen Approach: New Insights on Ad Effectiveness Across Multiple Screens," Think Insights, http://www.thinkwithgoogle.com/insights/featured/more-screens-are-better/ (all viewed 20 Feb. 2012).

that "We have been tidying up a little…", and frames the change as a way to be of help to user, who has "less legal gloop to read through." Would a user have any reason to doubt the new privacy policy was designed to help them better use Google services when reading the following description?

> Over time you can expect to see better search results, ads and other content when you're using Google services. A more consistent user experience across Google might mean that we give you more accurate spelling suggestions because you've typed them before. Or maybe we can tell you that you'll be late for a meeting based on your location, your calendar and the local traffic conditions. Google users still have to do too much heavy lifting, and we want to do a better job of helping them.[5]

In addition to its claims that the new privacy changes will be easier for a consumer to understand and make decisions about, Google also suggests that "regulators" are a driving force behind its decision: "Regulators globally have been calling for shorter, simpler privacy policies." Indeed, as Google knows and should address on its new privacy change webpage, privacy regulators from the European Union have asked Google to postpone its March 1, 2012, privacy policy changes pending a formal review.[6]

In its letter to CDD on the Google Buzz settlement (October 13, 2011), responding to our call to implement safeguards for such Google holdings as DoubleClick and AdMob, the FTC stated that its order "applies broadly to all of Google's products and services…." The commission's letter to CDD also makes clear that "Under the order, Google is prohibited from misrepresenting the privacy and confidentiality of any covered information…." As we believe the evidence below will demonstrate, Google has failed to inform users as to how its new privacy policy affects the role and use of "covered information" as required by the FTC order.

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[5] "Important changes to Google's Privacy Policy," YouTube, 25 Jan. 2012, http://www.google.com/support/forum/p/youtube/thread?tid=496e758041dcd252&hl=en (viewed 20 Feb. 2012).

[6] "Google: EU Group Urges Privacy Policy Change Pause," BBC News, 3 Feb. 2012, http://www.bbc.co.uk/news/technology-16870465 (viewed 21 Feb. 2012).

Google Should Have Informed Users that its Need to Collect more Information on them and their social networks is due to business reasons related to its digital marketing business, and not to make its consumer privacy policy "shorter and easier to read." It should have informed them of cross-platform data integration for targeting and the privacy implications therein.

The FTC should require Google to accurately and honestly inform users about the factors motivating its privacy policy changes. They are driven, in part, by the impact of "audience buying" and social media marketing on its digital advertising business. As CDD made clear in its 2010 complaint to the FTC on digital advertising exchanges, the dramatic growth of audience buying raises crucial privacy and consumer protection concerns.[7] Real-time bidding on advertising exchanges, along with new ways to merge additional data sets into targeting and tracking profiles, have emerged as a key part of Google's ad sales. Google's DoubleClick Ad Exchange, Invite Media, Admeld and DoubleClick division give it a Demand Side Platform, Supply Side Platform, Ad Exchange and "Buy-side" and "Sell-side" ad servers.[8] As a Google executive recently explained, "…advertisers will start thinking about buying audiences rather than just buying placement…. Modern display lets advertisers define their audience and then reach them across the web…. That means advertisers have to start thinking of the wider web…."[9] Google has been significantly expanding its audience-buying business in the U.S. and globally, including facilitating greater

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[7] Center for Digital Democracy, "April 2010 Complaint—Real-time Targeting & Auctioning, Data Profiling, Optimization, And Economic Loss To Consumers & Privacy," Apr. 2010, http://www.democraticmedia.org/real-time-targeting (viewed 20 Feb. 2012).

[8] "Jason Bigler Discusses Google's Bespoke Approach In Europe, The Cross-Channel Opportunity And How We Get To $200 Billion in Display," ExchangeWire, 15 Feb. 2012, http://www.exchangewire.com/blog/2012/02/15/jason-bigler-discusses-googles-bespoke-approach-in-europe-the-cross-channel-opportunity-and-how-we-get-to-200-billion-in-display/ (viewed 20 Feb. 2012).

[9] Julian Persaud, "Three Predictions for Display in 2012: Google," 9 Feb. 2012, http://www.campaignasia.com/Article/289782,three-predictions-for-display-in-2012-google.aspx (subscription required).

forms of data profiling and tracking.[10] Its own "multi-screen" and "cross-channel" research, released in October 2011 with Nielsen, showed that ad effectiveness increases when campaigns are displayed across "TV, PC, smartphone and tablets," thus requiring cross-platform data gathering and targeting capabilities.[11]

Social media is also transforming the search marketing and other forms of digital advertising. As Google well knows, social search, social commerce, and even social TV are reworking the traditional digital advertising business. Increasingly, through communications to their networks of friends and associates, individual users are influencing how we discover and buy products and services. Facing vigorous new competition from Facebook, and understanding that its core search product was increasingly going to be challenged by social marketing, Google found itself at a disadvantage. It needed to better integrate its only key social marketing product—YouTube—into its profile-based targeting system, as well as amplify its user information through the growth of Google+. As one analyst explained, Google needs to integrate more "social features," such as Google+, if it is to compete with Facebook. Such social data, he explained, will "span across their set of products now [that] they've consolidated their profiles...."[12] When Google incorporated +1 on the

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[10] DoubleClick, "Research: Reports and White Papers Covering Online Advertising," http://www.google.com/doubleclick/research/index.html; Criteo Labs, "Criteo Get Great Results Retargeting Audiences at Scale with Real-Time Bidding," 31 May 2011, http://labs.criteo.com/en/criteo/what-they-are-saying/criteo-get-great-results-retargeting-audiences-at-scale-with-real-time-b (both viewed 20 Feb. 2012).

[11] "Nearly 75% of Consumers Remember an Ad When Viewed Across Media Platforms," Nielsen Wire, 29 Sept. 2011, http://blog.nielsen.com/nielsenwire/online_mobile/nearly-75-of-consumers-remember-an-ad-when-viewed-across-media-platforms/ (viewed 21 Feb. 2012).

[12] Rip Emerson, "Citi Analysts: Facebook Ads Are Taking Spending Away From Display, Not Search," TechCrunch, 27 Sept. 2011, http://techcrunch.com/2011/09/27/citi-analysts-facebook-ads-are-taking-spending-away-from-display-not-search/; eMarketer, "Marketers Follow Users to More Social Sites," 23 Jan. 2012, http://www.emarketer.com/Article.aspx?R=1008790; eMarketer, "Companies Worldwide Plan to Increase Social Media Marketing," http://www.emarketer.com/Article.aspx?id=1008731&R=1008731; Jake Hird, "Eight Presentations on Social Commerce," Econsultancy, 22 July 2011, http://econsultancy.com/us/blog/7798-8-presentations-to-help-you-understand-the-

Google Display Network in September 2011, it was acknowledging to its advertising clients that incorporating social data into its ad targeting was a major part of how it sold ads.[13] Surely its users needed to be told in its privacy revision announcement that social media data collection for targeting was an important factor in this change.

As the Electronic Frontier Foundation make clear, the changes to YouTube's privacy policy has a direct impact on the privacy of a user: "…the data Google collected on you when you used YouTube was carefully cabined away from your other Google products. So, in effect, Google could use data they collected on YouTube to improve and customize the users' YouTube experience, but couldn't use the data to customize and improve user experience on, say, Google+….The new privacy policy removes the separation between YouTube, Google search, and other Google products."[14]

Google's privacy policy should inform users how the company uses cross-platform strategies ("a multi-screen experience via desktop, mobile, and display…, a display strategy that isn't siloed") and is committed to further intensive targeting for its digital data collection services. As its December 2011 presentation called "5 Resolutions for Display Advertisers" illustrates, Google strongly supports "retargeting" users wherever they are online: "Remarketing is like plugging a leaky

intricacies-of-social-commerce; Susan Gunelius, "Why Google Is Adding Social Search Features," Sprout Insights, 31 Jan. 2012, http://sproutsocial.com/insights/2012/01/google-social-search/; Jeremiah Owyang, "Google+ Has a Perception Problem," Web Strategy, 9 Feb. 2012, http://www.web-strategist.com/blog/2012/02/09/google-has-a-perception-problem/ (all viewed 20 Feb. 2012).

[13] Christian Oestlien, "+1: Now Making Display Ads More Relevant," Inside AdSense Blog, 20 Sept. 2011, http://adsense.blogspot.com/2011/09/1-now-making-display-ads-more-relevant.html; Vic Gundotra, "Google+: 92, 93, 94, 95, 96, 97, 98, 99... 100," Official Google Blog, 20 Sept. 2011, http://googleblog.blogspot.com/2011/09/google-92-93-94-95-96-97-98-99-100.html (both viewed 20 Feb. 2012).

[14] Rainey Reitman "What Actually Changed in Google's Privacy Policy," Electronic Frontier Foundation, 1 Feb. 2012, https://www.eff.org/deeplinks/2012/02/what-actually-changed-google%27s-privacy-policy (viewed 20 Feb. 2012).

bucket, where the leak is website visitors leaving your site, and the plug is display ads that bring past visitors back to your site." Google urged marketers to track and profile users based on their "intent," (what they did on a site, for example), and to use such profile data to hone more targeted ads. It specifically called for such retargeting through capturing data of YouTube viewers, as well as using the site for more intensively ("With the latest changes to the YouTube homepage, we've pivoted the YouTube site experience to focus on channels and a socially-driven feed…").[15] It also urged the greater use of social media targeting via display ads: "Social interactions within the banner: Actually having users interact with the banner (by playing a game, watching videos, etc.) and then having them share their experiences through social media continues the conversation." Mobile data targeting via location, time of day, device, and context, including using "format options… that are specific to mobile devices (click to video, click to map, click to call)" was another New Year's resolution.[16]

YouTube Data Tracking: Google's new privacy policy should have informed users that it wants to better merge YouTube data into profiles for user targeting. Google should explain that its plans related to the January 2012 YouTube privacy changes were connected to the site's major redesign in Fall 2011. YouTube was repositioned to better target consumers and increase its ability to attract larger advertising budgets ("transforming the platform from an aggregator of… videos into a generator and seller of quality content"), as well as deepen its social media impact.[17]

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[15] YouTube, "Get More into What You Love on YouTube with Our New Look," 1 Dec. 2011, http://youtube-global.blogspot.com/2011/12/get-more-into-what-you-love-on-youtube.html (viewed 20 Feb. 2012).

[16] "There's a simple recipe to the perfect ad: The right person + the right message + the right time + the right context = the perfect ad." Dan Taylor, "5 New Year's Resolutions for Display Advertisers," Google Agency Blog, 16 Dec. 2011, http://adwordsagency.blogspot.com/2011/12/5-new-years-resolutions-for-display.html (viewed 20 Feb. 2012).

[17] D. M. Levine, "Beyond Cat Videos: Is YouTube on the Brink of Becoming a Programming Star?" *Adweek*, 14 Nov. 2011, http://www.adweek.com/news/advertising-branding/beyond-cat-videos-136522; Trefis Team, "Google Clicks Into Social Mode With YouTube Redesign," *Forbes*, 7 Dec. 2011,

For Google's new privacy regime to be accurate, it should have explained its goal with TrueView for YouTube, for example. Through TrueView, Google will now collect more granular data on a user's interests that can be used for profiled-based targeting; it is also ushering in a different way Google charges for YouTube advertising—from a "cost-per-impression basis [to] cost-per-view basis." This includes a goal of having "millions of pieces of creative to choose from to find the right match between an ad and the person who wants to watch it." To fulfill Google's YouTube advertising plans, it requires more data from a user.[18] As Google explains to advertisers, "TrueView Video Ads gives you the best of video and online advertising. Get the brand engagement and reach of YouTube combined with the conversion tracking and optimization of online advertising. You can access insight data to help inform your story line: see which keywords/audiences are performing best, what the hot spots are in your videos and which of your videos are most popular."[19] Google has conducted neuromarketing-oriented testing with its TrueView product, "using biometrics (heart rate, respiratory rate, skin conductance, motion—via Innerscope), depth interviews and eye-tracking."[20] Google should also be required to explain in its new privacy policy how it uses "Third Party Audience Data," such as allowing YouTube advertisers to target "Shoppers whose visits to

http://www.forbes.com/sites/greatspeculations/2011/12/07/google-clicks-into-social-mode-with-youtube-redesign/ (both viewed 20 Feb. 2012).

[18] D. M. Levine, "Fast Chat: Lucas Watson: YouTube has Started to Curate its Content. Now it's Time to Woo Advertisers," *Adweek*, 22 Dec. 2011, http://www.adweek.com/news/technology/fast-chat-lucas-watson-137206 (viewed 20 Feb. 2012).

[19] YouTube, "TrueView Video Ads," http://www.youtube.com/t/advertising_trueview; YouTube, "TrueView Video Ads: Give Viewers Choice," http://s.ytimg.com/yt/pdf/YouTube_TrueView_One_Sheeter-vflOhr7pv.pdf (both viewed 20 Feb. 2012).

[20] Simon Kendrick, "Notes from MRG Conference 2011," Curiously Persistent, 15 Dec. 2011, http://curiouslypersistent.wordpress.com/2011/12/15/notes-from-mrg-conference-2011/; Christina Park, "New Google Research: Reaching Your Audience Effectively with YouTube TrueView Ads," Google Agency Blog, 16 Feb. 2012, http://adwordsagency.blogspot.com/2012/02/new-google-research-reaching-your.html (both viewed 20 Feb. 2012).

other websites indicate they're in the market for particular goods or services, based on third-party data from sources like BlueKai."[21]

Google's DoubleClick Ad Exchange Expansion, Cross-Format Targeting, and its Impact on Privacy Changes: Google's Ad Exchange has been integrated into its overall data capture platform, requiring the company to generate additional information on users. As Google explained on November 7, 2011, "we've seen the volume of trades on our own exchange grow by more than 150% in the past year…. [W]e have been expanding the types of formats in the Exchange."[22] Google's Exchange now targets via display, rich media, "in-stream" video, and mobile applications and services. Google's own research from early in 2011 revealed that advertisers and agencies surveyed intended "to spend more on digital advertising…because of the benefits of RTB."[23] In its July 2011 white paper on Real-Time Bidding, Google exults the emergence of what it calls "data liquidity" to meet the opportunities posed by "inventory liquidity" (which means the ability to better target a user). Google explains the range of user data that can be used for targeting on the Exchange—something it fails to meaningfully do in its privacy change announcement. For example, Google notes that ad targeters can use "first-party retargeting data," "third-party data …to …match a pre-defined profile, such as demographic, behavioral, in-market profile," and "data passed from the seller with each impression… [including] Geo parameters."[24] On November 7, 2011, Google

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[21] YouTube, "Targeting," http://www.youtube.com/advertise/targeting.html (viewed 20 Feb. 2012).

[22] Chip Hall, "Bringing AdMob Mobile Inventory to the DoubleClick Ad Exchange," DoubleClick Advertiser Blog, 7 Nov. 2011, http://doubleclickadvertisers.blogspot.com/2011/11/bringing-admob-mobile-inventory-to.html (viewed 21 Feb. 2012).

[23] DoubleClick, "Research: Reports and White Papers Covering Online Advertising." See also Sally Cole, "Video: Learn How Real-Time Bidding is Defined and Trends in RTB in Under One Hour," DoubleClick Advertiser Blog, 24 Jun. 2011, http://doubleclickadvertisers.blogspot.com/2011/06/video-learn-how-real-time-bidding-is.html (viewed 21 Feb. 2012).

announced it was "bringing AdMob mobile inventory to the DoubleClick....
[M]arketers on our Exchange will be able to buy, in real time, ads that run inside
people's favorite mobile games, news apps and more. With this important addition,
the DoubleClick Ad Exchange will be truly cross-format...and will become the first
exchange to support this full range of ad formats."[25]

Google recently explained to its clients—not its users—the role that third-party data
integration for profile-based targeting plays in its Exchange: "One benefit of
DoubleClick Ad Exchange is that buyers can bring their own data, optimization and
bidding strategies."[26] In its case study, Google quotes the Real-time Platform
Manager for Quantcast explaining its use of the DoubleClick Ad Exchange: "The thing
we like most about real-time bidding is that it lets us bring our own data to the
party.... [R]eal-time bidding requires big data that is relevant an continually
refreshed.... Quantcast works with a truly huge data set."[27]

On September 15, 2011, Google made a significant addition on its Ad Exchange
service. It launched what it called *Direct Deals* on its Ad Exchange, providing forms

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[24] Google, "The Arrival of Real-Time Bidding and What it Means for Media Buyers," July
2011,
http://static.googleusercontent.com/external_content/untrusted_dlcp/www.google.com/e
n/us/doubleclick/pdfs/Google-White-Paper-The-Arrival-of-Real-Time-Bidding-July-
2011.pdf (viewed 21 Feb. 2012).

[25] Chip Hall, "Bringing AdMob Mobile Inventory to the DoubleClick Ad Exchange."

[26] Sally Cole, "Case Study: DoubleClick Ad Exchange Helps Advertisers Find Quantcast
Lookalikes at Scale," DoubleClick Advertiser Blog, 27 Oct. 2011,
http://doubleclickadvertisers.blogspot.com/2011/10/case-study-doubleclick-ad-
exchange.html (viewed 21 Feb. 2012).

[27] DoubleClick, "Case Study: DoubleClick Ad Exchange Helps Quantcast Find Valuable
'Lookalike' Audiences at Scale," 2011,
http://static.googleusercontent.com/external_content/untrusted_dlcp/www.google.com/e
n/us/doubleclick/pdfs/Quantcast-and-DoubleClick-Ad-Exchange-Case-Study-10-25-
2011.pdf (viewed 21 Feb. 2012).

of private "first-look" deals for publishers seeking more exclusive user targeting.[28] As Google explained at that time, "Direct Deals allows publishers to forge relationships with new, data-driven, buyers and benefit from the efficiency of an exchange transaction…. We are excited to introduce this new level of flexibility to Ad Exchange to help buyers improve the effectiveness of their campaigns and sellers profit from real-time display buying on their terms."[29] A key element in Google's drive to expand its user data collection practices is the role of the Google Display Network, which, a Google executive noted at that time "…can act as a buyer on the Exchange and use Direct Deals." As Scott Spencer, Product Management Director of Google's DoubleClick Ad Exchange, explained, "This is a new way to sell inventory that bridges the gap between directly sold campaigns and the open exchange model. The benefit for publishers is being able to negotiate their own price for their inventory directly with today's data-driven buyers. The advantage for buyers is being able to buy the impressions they want with all of the advantages of real-time bidding, but without any obligation to purchase."[30]

Google's Invite Media, which it acquired in 2010, provides a "Bid Manager" that enables "Top agencies and advertisers… to use their own and third-party data…."[31] In its Fact Sheet on Invite Media, Google explains that marketers can "incorporate first-party remarketing data or third-party audience data from any major source to find precisely the audience segments you want to reach." It also explains how users

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[28] Neal Mohan, "New Tools to Help Publishers Maximize Their Revenue," The Official Google Blog, 15 Sept. 2011, http://googleblog.blogspot.com/2011/09/new-tools-to-help-publishers-maximize.html (viewed 21 Feb. 2012).

[29] Scott Spencer, "Introducing Ad Exchange Direct Deals," DoubleClick Publisher Blog, 15 Sept. 2011, http://doubleclickpublishers.blogspot.com/2011/09/introducing-ad-exchange-direct-deals.html (viewed 21 Feb. 2012).

[30] "Google's Spencer Talks Direct Deals Vs Private Ad Slots On DoubleClick Ad Exchange," AdExchanger.com, 16 Sept. 2011, http://www.adexchanger.com/ad-exchange-news/google-spencer-talks-direct-deals-vs-private-ad-slots-on-doubleclick-ad-exchange/ (viewed 21 Feb. 2012).

[31] DoubleClick, "Invite Media," http://www.google.com/doubleclick/advertisers/invite_media.html (viewed 21 Feb. 2012).

face further data collection and targeting via Google Real-Time Bidding process, something that the new privacy policy fails to address: "With RTB, media buyers can drive meaningful one-to-one connections to consumers with greater scale and efficiency. Every time an impression is available, the advertising exchange 'asks' us if we'd like to bid on behalf of an advertiser…. You get a variety of information, such as the site the impression is on, the time stamp, information about the user, etc."[32]

Integrating Social Data into its Consumer Targeting System: As we noted earlier, the role of social media and new user behaviors has roiled the online advertising marketplace. Ironically, this complaint is connected to one of Google's earlier failures to harvest social data for advertising—Google Buzz. In March 2011, Google launched its +1 product to help bolster the role of social media in its search marketing business. In June 2011, Google expanded the use of +1 to also include its other Web properties, including "Android Market, Blogger, Product Search and YouTube."[33] In September 2011, Google announced that AdSense publishers would now be able to use "+1 on the Google Display Network…. [T]he +1 button will begin to appear on display ads on your site. With a single click, people will now be able to endorse specific ads and make them more likely to appear to their social connections…. leading to more clicks and higher returns…."[34] Google also had announced in June 2011 additional ways advertisers could analyze +1, and described its social engagement analysis tools. Through its "social plug-in analytics" advertisers can use the following:

- The Social Engagement report lets you see how site behavior changes for visits that include clicks on +1 buttons or other social actions. This allows

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[32] Google, "Invite Media: A Smarter, More Efficient Way to Buy Media," http://static.googleusercontent.com/external_content/untrusted_dlcp/www.google.com/en/us/doubleclick/pdfs/invite_media.pdf (viewed 21 Feb. 2012).

[33] Evan Gilbert, "The +1 Button for Websites: Recommend Content Across the Web," The Official Google Blog, 1 June 2011, http://googleblog.blogspot.com/2011/06/1-button-for-websites-recommend-content.html (viewed 21 Feb. 2012).

[34] Oestlien, "+1: Now Making Display Ads More Relevant."

you to determine, for example, whether people who +1 your pages during a visit are likely to spend more time on your site than people who don't.

- The Social Actions report lets you track the number of social actions (+1 clicks, Tweets, etc) taken on your site, all in one place.
- The Social Pages report allows you to compare the pages on your site to see which are driving the highest the number of social actions.[35]

Expansion of Mobile Data Collection: Google had made mobile targeting a significant focus of its efforts, releasing a series of research reports in 2011 to demonstrate the power and influence of what it calls the "Mobile Moment." Its own analysis released in September 2011 shows how mobile platforms, including tablets, are now a key part of the search marketing business.[36] In September 2011, Google announced that its "+1 button will start to roll out on AdSense for Mobile Content publishers for both text and image ads."[37] Google also better integrated YouTube into its mobile targeting apparatus, announcing in November 2011 that advertisers could now use YouTube "mobile in-stream ads to reach specific audiences, locations and content."[38] In June 2011, Google launched new mobile ad targeting formats for AdMob, "including full page graphical interstitial ads, to cross-promote their apps while gaining more control over their campaigns by setting impression goals, targeting by device or geography and creating ad groups."[39] In February 2012,

[35] Dan Rodney, "+1 reporting in Google Webmaster Tools and Google Analytics," Inside AdSense Blog, 29 Jun. 2011, http://adsense.blogspot.com/2011/06/1-reporting-in-google-webmaster-tools.html?utm_source=aso&utm_campaign=ww-ww-et-asblog_2011-12-28&utm_medium=link (viewed 21 Feb. 2012).

[36] Johanna Werther, "New! Search Data Reveal that When the Sun Goes Down, the Tablets Come Out," Google Mobile Ads Blog, 26 Sept. 2011, http://googlemobileads.blogspot.com/2011/09/new-search-data-reveal-that-when-sun.html (viewed 21 Feb. 2012).

[37] Neha Pattan, "+1 Coming to Mobile Display Ads," Google Mobile Ads Blog, 20 Sept. 2011, http://googlemobileads.blogspot.com/2011/09/1-coming-to-mobile-display-ads_20.html (viewed 21 Feb. 2012).

[38] Nicky Crane, "More Ways to Reach Your Audience with YouTube Mobile Ads," Google Mobile Ads Blog, 16 Nov. 2011, http://googlemobileads.blogspot.com/2011/11/more-ways-to-reach-your-audience-with.html (viewed 21 Feb. 2012).

[39] Jason Morse, "AdMob Adds New Features and Ad Formats to House Ads for Developers," Google Mobile Ads Blog, 8 June 2011,

Google announced that its "AdSense product now supports mobile ad unit sizes....
Now publishers have a single AdSense product to manage their ad units across
mobile and desktop...." The change has an impact on user privacy, with Google
explaining that "Mobile web publishers need to update their tags to the new
AdSense for content mobile ads...."[40]

Shopper Marketing and "Path-to-Purchase" Data Targeting: Google has made a
significant commitment (as have others) to expand its data collection and targeting
system to incorporate location. In 2011 Google launched a significant initiative
called "Zero Moment of Truth" (ZMOT).[41] At its core, ZMOT relies on using an array
of digital tracking and targeting tools—including search, mobile, video and social—
to influence a consumer regarding the purchasing a product or service.[42] The ZMOT
effort is linked to integrating Google's data collection and targeting process across
platform and application, so it can be activated regardless of a user's location.[43] On
December 14, 2011, Google expanded its ZMOT work by forming "The Google
Shopper Marketing Agency Council. The Council's goal is to "advance understanding
of how online and offline behavior drives purchase consideration and decision-
making...."[44] The FTC should analyze the myriad data connections required for

http://googlemobileads.blogspot.com/2011/06/admob-adds-new-features-and-ad-
formats.html (viewed 21 Feb. 2012).

[40] Vishay Nihalani, "Mobile Becomes a Core Part of AdSense for Content," Google Mobile Ads
Blog, 16 Feb. 2012, http://googlemobileads.blogspot.com/2012/02/mobile-becomes-core-
part-of-adsense-for.html (viewed 21 Feb. 2012).

[41] Google, "The Zero Moment of Truth," Think Insights,
http://www.thinkwithgoogle.com/insights/featured/zero-moment-of-truth/ (viewed 21
Feb. 2012).

[42] Google, "The Zero Moment of Truth Macro Study," Think Insights, Apr. 2011,
http://www.thinkwithgoogle.com/insights/library/studies/the-zero-moment-of-truth-
macro-study/ (viewed 21 Feb. 2012).

[43] David Amerland, "The Moment of Truth for Social Media Marketers: Google Releases New
Free eBook," Social Media Today, 6 Dec. 2011, http://socialmediatoday.com/david-
amerland/399862/moment-truth-social-media-marketers-google-releases-new-free-ebook
(viewed 21 Feb. 2012).

[44] Stephanie Redish Hofmann, "A New Agency Council for a New Kind of Shopper:
Introducing The Google Shopper Marketing Agency Council," Google CPG Blog, 14 Dec. 2011,

ZMOT targeting, and ensure Google's privacy policy accurately reflects its impact on user privacy.

Further Expansion of DoubleClick Tracking and Targeting: Google made significant additions to its DoubleClick for Publishers system in 2011. In October 2011, Google announced the "next generation of the DFP [DoubleClick for Publishers] ad tag." Through its "Publisher Console," the new ad tag enables marketers working with DoubleClick to "view the real-time decision making process DFP uses to determine which ad to serve, the time DFP took to generate each ad…."[45] Also in October 2011, DFP Video was launched, enabling "publishers… [to] manage their entire display advertising business with video at its core through one platform. No longer do publishers need to deal with the operational complexity of splitting off their video inventory into a separate ad server."[46] In November 2011, Google's mobile DFP product released additional capabilities for "advanced targeting" of mobile consumers. Reflecting Google's new goal to harvest profiling data across platforms, the DFP Mobile product enables "tighter integrations with Google AdSense, AdMob, the DoubleClick Ad Exchange and mobile ad networks."[47] In December 2011 it released additional data analytics tools for ad targeting via DFP.[48] It also integrated at that time +1 into the DoubleClick DFP system.[49] In

http://google-cpg.blogspot.com/2011/12/new-agency-council-for-new-kind-of.html (viewed 21 Feb. 2012).

[45] Ajay Surie, "Introducing the Next Generation of the DFP Ad Tag," DoubleClick Publisher Blog, 25 Oct. 2011, http://doubleclickpublishers.blogspot.com/2011/10/introducing-next-generation-of-dfp-ad.html (viewed 21 Feb. 2012).

[46] Payam Shodjai, "A New Approach to Video Advertising for Publishers of All Sizes," DoubleClick Publisher Blog, 19 Oct. 2011, http://doubleclickpublishers.blogspot.com/2011/10/new-approach-to-video-advertising-for.html (viewed 21 Feb. 2012).

[47] Marcel Gordon, "Capture the Mobile Opportunity with DFP Mobile," DoubleClick Publisher Blog, 29 Nov. 2011, http://doubleclickpublishers.blogspot.com/2011/11/capture-mobile-opportunity-with-dfp.html (viewed 21 Feb. 2012).

[48] Alex Strittmatter, "What's New in DoubleClick for Publishers," DoubleClick Publisher Blog, 20 Dec. 2011, http://doubleclickpublishers.blogspot.com/2011/12/whats-new-in-doubleclick-for-publishers.html (viewed 21 Feb. 2012).

December 2011, Google announced it would "over time" meld its DoubleClick and new acquisition Admeld RTB services, explaining that it would help create "a much simpler system that enables publishers to manage and sell their ad space—across desktop, video, mobile, tablets and more."[50]

Partnership with Vivaki: Google should also have described in its privacy policy how user data was needed for its alliance with global ad leader Publicis. VivaKi, a Publicis subsidiary, is using Google data and services as part of its Nerve Center/Audience on Demand targeting operations. In November 2011, Google expanded its data sharing and targeting pact with VivaKi by giving it access to "AdMob mobile advertising inventory through Google's DoubleClick Ad Exchange." The deal enables VivaKi to buy "mobile ads for marketers in real time… inside mobile games, news apps and content." [51] As VivaKi explained at that time, "As one of the largest mobile ad networks, the addition of AdMob inventory will bring unprecedented scale to exchange-based buying for mobile." Google data are being used by VivaKi to help track users across "Mobile, Video, Display, Search, etc."[52]

Google also needed more online video-related profiling data for its work with the

[49] David Flinner, "+1 Button in DFP: Leveraging Social Recommendations in Your Display Ads," DoubleClick Publisher Blog, 5 Dec. 2011, http://doubleclickpublishers.blogspot.com/2011/11/1-button-in-dfp-leveraging-social.html (viewed 21 Feb. 2012).

[50] Neal Mohan, "Take a Walk on the Sell-side," DoubleClick Publisher Blog, 2 Dec. 2011, http://doubleclickpublishers.blogspot.com/2011/12/take-walk-on-sell-side.html (viewed 21 Feb. 2012).

[51] "VivaKi to Buy Mobile Display Inventory through DoubleClick," 7 Nov. 2011, http://www.pitchengine.com/vivaki/vivaki-to-buy-mobile-display-inventory-through-doubleclick (viewed 21 Feb. 2012).

[52] VivaKi, "VivaKi Tests New Mobile Inventory on DoubleClick AdEx," http://www.vivaki.com/2011/11/vivaki-tests-new-mobile-inventory-on-doubleclick-adex/. See also "Marco Bertozzi Discusses The Vivaki Mobile Partnership With Google, RTB In Mobile And The Rollout In Europe," ExchangeWire, 10 Nov. 2011, http://www.exchangewire.com/blog/2011/11/10/macro-bertozzi-discusses-the-vivaki-mobile-partnership-with-google-rtb-in-mobile-and-how-to-execute-mobile-buys-track-performance-without-the-cookie/ (both viewed 21 Feb. 2012).

global initiative organized by Publicis designed to better target digital video ads. As Google explained back in 2010 when it became a part of VivaKi's *The Pool,* "by 2015, 50 percent of online ads will have an element of online video in them bought on a cost-per-view basis."[53]

FTC Must Act Prior to the March 1, 2012 Google Privacy Policy Switchover:
Over the last several weeks, CDD has made some of the above information available to the Commission. Through this complaint and request for relief, we have amplified our informal submissions. The evidence is clear that Google's business practices, many announced and implemented prior to the January 2012 new privacy plan, are the core reason why it is changing its policy. CDD urges the Commission to further investigate Google's violation of the Consent Decree, impose fines, other penalties, and seek remedies. The FTC should immediately request that Google postpone its planned privacy policy changes until an investigation has been completed.

Respectfully submitted,

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[53] Jack Marshall, "YouTube Plunges Into Vivaki's Pool," ClickZ, 30 Sept. 2010, http://www.clickz.com/clickz/news/1736539/youtube-plunges-into-vivakis-pool; Curt Hecht, "The State Of VivaKi Nerve Center: CEO Hecht On Audience On Demand, Programmatic Buying And Trends," AdExchanger.com, 17 Nov. 2011, http://www.adexchanger.com/the-state-of/vivaki-nerve-center/#google (both viewed 20 Feb. 2012).