



**Testimony of Jason Kint**

**CEO, Digital Content Next**

**Before the**

**Senate Committee on the Judiciary**

**Subcommittee on Competition Policy, Antitrust and Consumer Rights**

**Competition in the Digital Advertising Ecosystem**

**May 3, 2023**

Thank you, Madame Chair, Ranking Member Lee and Senators. My name is Jason Kint and I'm the CEO of Digital Content Next. DCN is the only trade organization dedicated to serving high-quality digital content companies that manage trusted, direct relationships with both consumers and advertisers. Our membership includes more than 60 media companies and thousands of brands from every segment of the

market, from large to mid-sized companies some who have been around less than a decade while others more than a century - all creating original news and entertainment delivered over the Internet. Our members include The New York Times, Wall Street Journal, Washington Post, Disney, Paramount, Philadelphia Inquirer, Vox Media Group, Daily Caller, the Financial Times, TelevisaUnivision and Major League Baseball<sup>1</sup>. As background, I spent the first twenty years of my career running digital media businesses beginning with the advent of the web.

Our DCN members create trusted, original content. While they may have different legacies, they are all focused on creating and monetizing this content over the Internet. This content is funded primarily through advertising. Yet while advertising is woven into everyone's digital lives and provides significant funding for investment in content, news and entertainment, most people have only a vague idea of how it works including how closely its plumbing has grown to resemble a stock exchange.

In barely three decades, digital advertising has quickly evolved into a high-speed marketplace in which myriad pricing, placement, targeting, and auction levers are pulled in milliseconds, as we go about our digital and physical lives. This is now

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<sup>1</sup> <https://digitalcontentnext.org/membership/members/>

the largest advertising market trading more than \$200 billion of advertising per year in the US - executed in real-time almost entirely by machines.

Like in the financial markets, brokers buy or sell on behalf of clients. To guard against fraud in the stock exchange, Congress enacted common sense rules nearly a century ago. These rules prohibit the biggest companies from operating on both sides of the market. These rules also require transparency and impose a duty on brokers to get the best deal for their client. In short, these are rules which every American can understand and support.

Unfortunately, there are no common-sense rules for the digital advertising marketplace. As a result, the supply chain is murky and rampant with fraud, insider trading and hidden fees. Ad tech companies often arbitrage users' data to use on behalf of other clients and for their own profits.

Google, the most dominant company in the digital advertising marketplace, enjoys a stranglehold over this entire supply chain since they offer the most popular software for advertisers buying ads, the most popular software for publishers selling ads and the most dominant exchange where bids are placed and winners are chosen. Google's dominant position is so problematic that a bipartisan group of State Attorneys General have filed suit<sup>2</sup> to end this monopoly. In January of this

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<sup>2</sup> <https://www.texasattorneygeneral.gov/news/releases/paxton-files-third-amendment-antitrust-lawsuit-against-google>

year, the Biden Department of Justice filed a similar suit<sup>3</sup> which was the result of an investigation initiated by the Trump Administration. Perhaps the best illustration of Google's dominant position was the quote included as evidence in the government's suits. Google's own executive said, "The analogy would be if Goldman or Citibank owned the New York Stock Exchange." I kid you not. How that plays out in reality is clear in the lawsuit allegations and industry conversations where Google warns publishers you have to abide by their design and their rules and give Google access to your data or you won't have access to the advertising demand that Google controls.

Digital advertising is a critical driver for our economy. That's why DCN wholeheartedly supports the AMERICA Act which was introduced by Senator Lee and co-sponsored by many of the Senators here today. The bill would require transparency, promote competition, reduce obvious conflicts of interest, and stop market abuses by the most dominant companies. The bill lays out basic, common-sense rules for the digital advertising marketplace that once again all Americans can understand and support.

Ultimately, the focus of the discussion around this legislation will be the breaking up of Google's ad tech services which, don't get me wrong, is certainly a necessary

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<sup>3</sup> <https://www.justice.gov/opa/pr/justice-department-sues-google-monopolizing-digital-advertising-technologies>

and good idea<sup>4</sup>. And there will be some who argue why not just let the Courts handle the antitrust lawsuits first before passing new laws? I have two reasons. First, as it relates to Google, we don't have time for a long appeal process as they've increasingly sucked the potential for profits out of the news media industry. Second, this legislation isn't merely about the behemoth, but it also importantly addresses transparency and eliminates conflicts of interest for even the middle-sized adtech companies so that all brokers have to serve their clients' interests. By lowering costs for publishers and advertisers, the AMERICA Act will also lower costs for consumers and help protect their privacy.

As Senator Lee previously said, "This is not a bill that's either liberal or conservative, it's not Republican or Democratic, this is just a good business process bill." We agree and applaud your work on behalf of the free and local press, small and large, old and new. I urge this committee to pass the AMERICA Act so that consumers and businesses will benefit from a healthy digital advertising marketplace.

Thank for you for inviting me to testify today and I look forward to answering any questions you have.

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<sup>4</sup> <https://www.wsj.com/articles/gop-led-legislation-would-force-breakup-of-googles-ad-business-11652969185>