



## Google learns its Democratic political ties have bounds

*After embracing President Obama, Google now finds itself facing off against the president's pick to run the Federal Trade Commission. The irony: a Republican FTC wouldn't have Google in its crosshairs.*

By: Declan McCullagh - October 19, 2012

---

MOUNTAIN VIEW, Calif.--Few Silicon Valley companies have ever embraced a political party as passionately as Google has. Its executive chairman, Eric Schmidt, has been described as a "kind of guru" to President Obama's campaign manager, and Google employees emerged as the No. 2 donor to the Democratic National Committee in the last election.

That love affair has now become a bit one-sided. Obama's pick to run the Federal Trade Commission, Jon Leibowitz, a Democrat and former aide to Democratic senators, has been carefully preparing a legal assault on the search company.

Leibowitz took the unusual step of announcing a formal investigation into Google's "search and search advertising" practices last month, predicting it would conclude by the end of 2012 -- weeks before his term would end if Mitt Romney happens to be elected. One report says Leibowitz, the Motion Picture Association of America's former lobbyist, wants "the glory" of being the regulator who takes on Google.

The irony of this unrequited affection is that Google's employees and executives, including co-founder Sergey Brin, who donated \$30,800 to the Democratic Party last year, likely would not be targeted if a Republican were inhabiting the White House.

"Republicans wouldn't think about bringing a case against Google," says Robert Lande, a professor at the University of Baltimore who specializes in antitrust law. Presidential party affiliation "matters a lot" in deciding whether to penalize companies like Google, Intel, and Microsoft, he says.

Romney has signaled that he's far more willing to let competitors fight it out in the marketplace. Former judge Robert Bork, a critic of aggressive antitrust actions and

chairman of Romney's Justice Advisory Committee, has said there are "serious factual, logical, and economic flaws" in an antitrust case against Google. Charlie Black, another Romney adviser, recently slammed the FTC's "phony" investigation of the search company.

Obama, by comparison, is an unabashed antitrust enthusiast: in 2008 he accused (PDF) President George W. Bush of having the "weakest record of antitrust enforcement of any administration in the last half century." The first action Obama's Justice Department antitrust chief, Christine Varney, took when starting her new job was to blame Bush for placing "too many hurdles" in the way of enforcement, and reverse (PDF) her Republican predecessor's policies. The New York Times described it as "Obama Takes Tougher Antitrust Line."

Google's affection for Democrats, especially the president, is long-standing. Schmidt stumped for Obama and joined other company executives in chipping in for the inaugural celebration. Employees and the company's political action committee gave \$1.6 million to Democrats in the last presidential election, according to the Center for Responsive Politics, but only \$300,000 to GOP candidates. In 2008, Google's climate director, Dan Reicher, exhorted an audience at the Democratic National Convention to "get out the vote and let's get Barack Obama elected in November!"

Visit Google's constellation of buildings in Mountain View, and one of the first things you'll notice is a line of plug-in electric cars tethered to charging stations granted priority parking privileges, not far from the handicapped and expectant mothers' spots. Combine that with the company's sharply Democratic tilt, the fundraisers executives including Susan Wojcicki and Marissa Mayer, now at Yahoo, have hosted for the president, and all that seems to be missing are "Hope" and "Change" signs dotting the campus.

Jim Harper, director of information policy studies at the free-market Cato Institute, says that political enthusiasm hasn't translated into anything tangible for the company. "The love shown to Democrats by Google has not resulted in any material policy benefits," Harper says.

The FTC declined to comment. A Google spokesman told CNET: "We continue to work cooperatively with the Federal Trade Commission and are happy to answer any questions they may have."

A repeat of Microsoft?

Just as Google placed its headquarters in the bright blue enclave of Silicon Valley, Microsoft located its just outside the bright blue enclave of Seattle. In the 1990s, its employees and executives regularly gave more to Democrats than Republicans, in some elections by as much as a three-to-one margin.

But a funny thing happened after a Democratic administration slapped Microsoft with a massive antitrust lawsuit in 1998 and demanded that the company be carved into pieces: the pattern abruptly switched. Not only did the GOP receive more money in 1998, 2000, and 2002, but conservative groups discovered a new cause. Americans for Tax Reform fired off a press release titled "Taxpayers Protest the Antitrust Vendetta Against Microsoft," and the Heritage Foundation dubbed it the "financial equivalent" of "state terrorism."

It wasn't until 2004, after the Bush administration settled the case and a federal judge approved the deal, that Microsoft employees eventually reverted to their previous political habits.

Albert Foer, president of the American Antitrust Institute, says that there are few differences between presidential administrations when it comes to obvious antitrust violations such as cartels. But there are significant differences, he says, when deciding whether to block mergers or to target companies like Google (what economists call "single-firm conduct").

If the recent comments from Romney's advisors are any indication, Foer says, Democrats "are likely to take a stronger position vis-a-vis Google than the Republicans."

One difference between Google's current travails, including a report this week of yet another FTC investigation, and what Microsoft experienced in the run-up to its own lawsuit is that Republican criticism of executive actions hasn't been as pointed.

It was a Democrat, Colorado Rep. Jared Polis, who recently wrote a letter to Leibowitz saying the idea of a lawsuit against Google "defies all logic." Sen. Jerry Moran, a Kansas Republican, offered more muted criticism in his own letter to Leibowitz yesterday that didn't mention Google by name, and merely suggested the FTC focus on "concrete consumer harms."

"It's really difficult to overstate the degree to which Google alienated congressional Republicans with its support for Net neutrality regulation," says Berin Szoka, president of the TechFreedom think tank in Washington, D.C. "That issue is going to take a long time and a lot of work for Google to deal with. It's unfortunate, because it's made a lot of Republicans not really think straight and forego their usual skepticism when it comes to regulation."

Yet just as Microsoft discovered allies in the form of the GOP, there are signs that Google is doing the same. It replaced its outgoing lobbyist, Alan Davidson, an attorney and computer scientist who once worked in the Clinton administration, with a Republican ex-congresswoman. Its PAC gives precisely the same sums to both major parties. And its chief executive, Larry Page, went from writing a check to help pay for Obama's inauguration to not giving to any candidates this time around.

On the other hand, the Bay Area remains politically Democratic, with a strong streak of cultural libertarianism, and its engineers and executives tend to be hostile to conservative views on abortion and gay marriage. Until, of course, a Democratic administration's antitrust attack becomes an existential threat.

Says Harper, who grew up a few miles from Google's headquarters: "Republicans have decided prematurely that Google is not a friendly company. They really should put Google back into the 'gettable' category."

*Disclosure: McCullagh is married to a Google employee not involved in the FTC investigation.*