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Sent: Thursday, June 21, 2012 5:25 PM
To: Read, John [John.Read@ATR.USDOJ.gov]
Subject: DOJ civil action Apple and Publishers- Alleged collusion on pricing

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I am the owner with my husband of a bricks and mortar bookstore which has served our community for over 60 years. I am writing out of concern regarding the civil suit filed by the Department of Justice in April against Apple and five major publishers accusing them of colluding on the pricing of e-books. This action threatens to disrupt the mechanisms determining how e-books are priced, and I am concerned that Amazon in particular will now be able to return to selling e-books below cost as it seeks to promote purchases for its Kindle products. This will have the detrimental effect of driving out competition and enable it to gain a near- monopoly status which is not good for the consumers on whose behalf the lawsuit was filed.

The agency model has been good for all bricks-and-mortar bookstores, good for publishing, and, most importantly, good for readers and book buyers. Since its introduction, the agency model has corrected a distortion in the market fostered by below-cost pricing, predominantly led by Amazon.com, the ultimate result of which appears to be, to reduce or to eliminate competition among both retailers and publishers. Since the introduction of the agency model many more independent booksellers are selling e-books, and those sales have shown steady growth. The agency model has lowered prices to independent bookstore customers, and independent bookstores. It has provided significantly increased price competition among publishers in regard to promotions, discounts, and special offers, all of which have allowed bricks-and-mortar bookstores to offer customers a wider array of titles at a greater value. Since the introduction of the agency model, evidence supports the fact that the e-book market for consumers has become far more competitive — not less so!

Deeply discounting books was a key component in the growth of Amazon. It is disheartening to think that the DOJ would accept the possible upending of an industry as important to the cultural and intellectual life of our nation as bookselling and publishing so that one retailer could pursue a policy that is nearly certain to result in monopolization of the e-book market.

Before the introduction of the agency model, Amazon had a 90 percent market share in e-books and they were frequently selling below cost, at prices far lower than independent

booksellers could purchase e-books from publishers. Today Barnes & Noble, Google, Apple, Kobo, along with independent booksellers and others have joined the market, which has become far more competitive and diverse. If the agency model goes away for a significant period of time, there is every reason to believe that Amazon will again price below cost and increase its e-book market share. This can only be bad news for the reading public, resulting in a cultural landscape offering a far less diverse range of titles being published and a much-diminished range of publishers.

In its suit the Department of Justice alleges that the agency model was created through improper and conspiratorial meetings among Apple and five major publishers. Two of those publishers Macmillan and Penguin are categorically denying the allegations. Three of the publishers have settled and the remedy being proposed would prohibit them from employing the agency model for a period of two years thereby eliminating their ability to set a minimum price for their e-books. Implementation of this penalty goes beyond what should be an appropriate punishment if collusion were determined. It is not the agency model that is being questioned. Therefore if collusion were to be confirmed other penalties should be assessed to avoid creating a catastrophic situation whose result will have significant and far reaching effects on the other retailers and publishers engaged in the sale of e-books.

I thank you for your consideration.

Frances D. Keilty

Owner

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