

John Read
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U.S. Department of Justice
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Washington, DC 20530

**Re: Comments on the Proposed Consent Decree in
United States v. Apple, Inc., et al., 77 Fed. Reg.
24518 (April 24, 2012)**

Dear Mr. Read:

My wife and I are owners of Great Northern Books & Hobbies in Oscoda, northern Michigan. We have owned the bookstore since 1994, almost 18 years now. We currently have about 4,000 sq.ft. of floor display space. Over the years we have had to adapt to changing conditions in the retail market from the coming of a WalMart store 15 miles away, to the rising popularity of internet sales (where most on-line retailers avoid collecting sales tax), a terrible economy, and now the introduction of e-books with its' recent rise in popularity.

We countered these challenges with adding hobby items, gifts, used books and, recently, specialty foods to our products offered. But we always have centered our efforts on the book sale market and making a wide variety of both fiction and non-fiction books available to our local community. While we have been working on this for several months, we just opened our first on-line bookstore offering on-line ordering of books with mailing service or in-store pick-up. **Included in this new endeavor now is the ability of e-Book sales** for which we also will collect sales tax from Michigan residents.

While our plans were being finalized for our on-line store with capability of e-Book sales, we became aware of the DOJ action against several publishers and the consent decree involving three publishers and the two year "temporary" requirement of eliminating the **Agency Model** from the selling of e-books by these publishers.

This news could not be more devastating, both from the prospect of playing into the hands of Amazon and helping them to control a developing major segment of the publishing market and the eventual destruction of healthy competition by eliminating that competition. We doubt that was the intention of this consent decree action, but it will be the most likely result. We imagine Amazon could not be happier. Their tactic in most states trying to get them to collect sales tax is to work a deal where they can avoid that prospect for two years or they will pull their warehouse out of the state. They then have two more years of tax free selling advantage over local brick-and-mortar stores. And now the Justice department is unwittingly (hopefully) using Amazon's tactic to bludgeon the publishers and consequently the small independent booksellers.

With the elimination of competition, Amazon will be in the powerful position of beginning to wrest control over what is published from the publishers. A publisher that does not toe the line does not receive orders. A publisher that does not receive orders does not publish. Not exactly a healthy situation for a democracy and a free society. Controlling what is published leads to a control over expression of ideas and a narrowing of thought. Again, from a second angle, we cannot perceive that this is the intention of the consent decree. But it too will most likely be the result.

Comments on the Proposed Consent Decree

United States vs. Apple, et al

By thinking you are protecting competition, you will unknowingly be eliminating it. Competition was being eliminated with the great success of Amazon before the Agency Model was introduced into the publishing business. Amazon had almost a stranglehold on the eBook market, I believe around 90% of sales. They, with their monopolistic size, were simply using e-book sales as “lost leaders”, selling books at under their cost to eliminate all completion. When the Agency Model was introduced, competition began to take hold and Amazon’s stranglehold was significantly reduced as Barnes & Noble strengthened their sales and independent booksellers entered the market and began to compete. The publishers should be free to compete among themselves and set their own prices for their products, with retailers competing for business with the service they can provide the consumer (knowledge of authors and books, ease of obtaining product and customer assistance with problems).

Each publisher should be “free” to set their own price they would like for their product so they can adequately produce and promote their product, compensate the authors and others involved in the production of the book, and earn a profit. If authors do not receive adequate compensation, they find other means of support and the pool of ideas and expression shrinks. Once the “chokehold” is completed by a giant such as Amazon, they then are free to offer generous compensation to those whom they favor and whose ideas they support. And they are then able to set their own pricing, unencumbered by free market competition from numerous other sellers.

Please rethink this entire situation and the proposed Consent Decree and the significant opposite effect it is likely to have on the publishing and retail book sales industries. This will be a colossal mistake with unintended results, detrimental to the American people and to our democracy.

Sincerely,

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