

**From:** Sophy Burnham [mailto:soph[REDACTED] ]  
**Sent:** Monday, June 11, 2012 5:47 PM  
**To:** Read, John  
**Subject:** US v. Apple, Inc et al Comments

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June 11, 2012

John R. Read, Esq.  
Chief, Litigation III  
AntiTrust Division, U.S. Dept of Justice  
450 Fifth Street NW # 4000  
Washington, D. C. 20530

Dear Mr. Read,

I am writing in reference to litigation: US v. Apple, Inc et al, 12-cv-2826 (DLC) (SDNY). Comments on Proposed Final Judgment as to Defendants Hachette, HarperCollins and Simon & Schuster.

As a professional writer, author of thirteen books, including some best sellers, I urge you, with every ounce of persuasion in my power, to reconsider the Justice Department proposed settlement alleging collusion and price fixing concerning publishers and Apple and Amazon.

The settlement, permitting Amazon to resume selling newly published (frontlist) books *as well as* ebooks *below cost* does a disservice to a) authors, b) publishers, and c) brick and mortar bookstore who with higher overhead cannot compete—and these include not only the small independent bookstores that all authors depend upon but also the “big box” ones, like Barnes & Noble. (Borders has already gone out of business.) This settlement is not in the public interest. It discourages competition, authorizes Amazon’s monopoly and allows it to undercut the market and eventually destroy the publishing industry.

Amazon is already the single most important and monopolistic entity determining the price of any book. It dictates to commercial publishers the price they will sell a book for – and therefore when they undercut the publisher's cost (thus cutting into the publisher's profit) they also reduce the author's royalty. If my book is listed at \$16.95, Amazon sells it at \$9.00. If it is priced at \$25.95, Amazon sells it for \$15.95. There is nothing the publisher can do to recapture his investment. The author's royalties, at 10%, are likewise cut: years of work unpaid!

Amazon is a vicious business enterprise. Having begun as a marketplace for book (and now selling a plethora of other merchandize) Amazon is deliberately holding the publishing business hostage by offering frontlist (new) hardcover books below the bookstore prices; by releasing digital (ebooks) at the same time as the hardcovers, it undercuts hardcover sales even further. In a deliberate market strategy, Amazon sells these valued ebooks at a loss to build the growing market, capture readers, and ultimately put publishers as well as brick and mortar stores out of business. It gives Amazon an ever-larger share of the ebook market. By 2009 Amazon owned 90% of the ebook market.

The attempt by five publishers in the industry to challenge Amazon and create digital competition with Apple and Barnes & Noble ebooks benefited customers, readers, authors, and publishers, as well as providing competition against Amazon's stranglehold. It even forced Amazon to double its royalty rates to match Apple's agency models royalties.

The Justice Department's proposed settlement undoes all this. It sanctions an anti-competitive marketplace, helping, in effect, to support predatory practices and to entrench a vicious monopolist. Bookstores play a vital role in our culture. With this proposed settlement, more bookstores will go out of business. Eventually publishers will go out of business, as Amazon offers authors the ability to self-publish (at first it sounds enticing until you pay all extra costs including publicity, distribution and promotion through the one permissible structure left: Amazon).

In France it is against the law to sell new books below the publisher's cost plus adequate profit, on the theory that writing, books, thinking, criticism-- the written word--are essential freedoms of expression and of thought, necessary to any Democracy. This Justice Department proposal will ultimately create a monopoly that threatens even our freedom of thought and freedom of expression, as well as trust in a free-market system.

Please.... Reconsider.

Yours Sincerely,

Sophy Burnham