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B O O K S E L L E R S

Tobias Cox  
Three Lives & Company  
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New York NY 10014

25 June 2012

John Read  
Chief Litigation III Section  
Antitrust Division  
U. S. Department of Justice  
450 5<sup>th</sup> Street NW, Suite 4000  
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,

I am the owner of a small, independent bookshop in New York City and am writing to you in response to the proposed consent decree by the Department of Justice in its civil suit settlement with three U.S. publishers, Hachette, HarperCollins, and Simon & Schuster, and am sharing with you my deep objections to this DOJ proposal.

I am in great support of antitrust legislation and enforcement but I am strongly opposed to the consent decree because it forces these three publishers to drop the Agency Model for e-book pricing for two years. I feel this action only serves to promote a monopoly that existed for the e-book market before the Agency Model was put in place and could quickly reinstate that monopoly should we return to the old e-book distribution system.

The Agency Model promotes competition among all who engage in the selling of books – independents, chains, online vendors – and allows all to participate fully in the selling of e-books. Before the Agency Model of e-book pricing was adopted, 90% of all e-book sales went through a single vendor, the online seller Amazon. Today, in less than two years of the Agency Model, other vendors, whether local independent bookshop or national bookstore chain or another online enterprise, have grown their e-book sales to the point that they now account for 40% of all e-book sales. I think this is an excellent example of a healthy, vigorous marketplace and, most pointedly, a fair accounting of the benefits of the Agency Model. The Agency Model offers the consumer more opportunities to purchase e-books from a wider range of vendors.

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I believe the Department of Justice's consent decree is not a benefit to the consumer; rather it is simply an agreement that benefits Amazon and its customer. The Agency Model assures all consumers no matter where they choose to shop for e-books that they receive a fair price for their e-book purchase. It also allows the greatest number of bookselling enterprises to participate in this increasingly important part of books sales, the e-book market. Should the Agency Model be eliminated many independent booksellers would no longer be able to participate in the selling of e-books and would essentially be denied access to this important channel.

I am not asking you to retain the Agency Model because I am a small business and need your protection against a massive online retailer. I am asking the Department of Justice to drop the ban on the Agency Model because if the proposed consent decree with Hachette, HarperCollins, and Simon & Schuster should remain standing, then this country is in imminent danger of losing a varied and broad distribution of e-books and in all likelihood would reestablish the monopoly Amazon held in the sale of e-books.

A healthy and free exchange of ideas in the United States requires, as does liberty, constant vigilance and the protection of the publication and dissemination of those ideas depends on the broadest range of publishers, vendors, and readers. The Agency Model has quickly become one more important aspect to that end. In my twenty-four years as a bookseller I have encountered a number of challenges to my livelihood, from the spread of big-box bookstores to the dominance of online retailers such as Amazon to deep-discount price clubs, but I consider the matter of Agency Model pricing as one of the gravest threats not only to my ability to compete in a fair and open marketplace and remain in business, but a deeply troubling attack on the notion of a free and open society that cherishes the broadest range of not only ideas but the ability to access those ideas.

I ask that the Department of Justice's conditions for settlement with Hachette, HarperCollins, and Simon & Schuster eliminate the requirement that the publishers drop the Agency Model.

Sincerely,

Tobias Cox, owner