

From: Kay Murray [mailto:kay.murr[REDACTED]]
Sent: Saturday, June 23, 2012 8:37 AM
To: Read, John [John.Read@ATR.USDOJ.gov]
Subject: Comment on U.S. v. Apple, et al., 12-cv-2826 (DLC) (SDNY)

John R. Read, Esq.
Chief, Litigation III
Antitrust Division, United States Department of Justice
Washington, D.C. 20530

Dear Mr. Read:

I write to comment as a private citizen on the proposed settlement in the above-referenced case. I am an attorney admitted to practice in the state of New York who worked as in-house counsel to the Authors Guild (1994-2005) and Tribune, the media chain of such newspapers as Newsday, The Baltimore Sun, and The Hartford Courant (2005-2008). As the co-author of the Writers Legal Guide (3d ed (2002), 4th ed. forthcoming in 2013), I am part of the book industry, and I have studied it quite intensively.

If the aim of the Justice Department's Antitrust Division is truly to preserve competition and protect consumers of books, it is making a grave error in suing Apple and the five publishers in this case. The proposed settlement will allow Amazon to regain and solidify its monopoly over the book trade, both print and digital. If this happens, then bookstores will die (as the Borders chain did two years ago, when Amazon had 90% of the e-book market), publishers will either be forced to publish only sure bestsellers or die, and Amazon will have complete market control over retail prices for books -- and pressure to show shareholders greater profits than it has heretofore done will no doubt affect what Amazon ultimately decides to charge for books once it owns the market.

It is hard to overstate the importance of bookstores to the consumers and suppliers -- writers and publishers -- of this industry. Bookstores are the showrooms, where consumers can examine and test new products. Without them, publishers cannot take chances on untested writers and formats, and the number and diversity of titles published will shrink dramatically.

The settlement would thus help Amazon destroy its competition, disincentivizing innovation among suppliers and ultimately exposing consumers to monopoly pricing. For these reasons, I respectfully suggest that the proposed settlement would very much harm, not promote, the public interest.

Respectfully,

Kathleen A. Murray