

June 19, 2012

Mr. John Read  
Chief, Litigation III Section  
Antitrust Division  
U.S. Department of Justice  
450 5th Street, NW, Suite 4000  
Washington, DC 20530

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LITIGATION III, ANTITRUST DIV.  
U.S. DEPT. OF JUSTICE

Dear Mr. Read:

In 2008, in the middle of the financial crisis, my wife and I invested a significant portion of our life savings to buy a bookstore. We did this, not because we hoped for any sort of reasonable return on our investment, but because we love books and the role that independent bookstores play in the cultural lives of their communities: hosting countless author talks, promoting important works of art, maintaining a welcoming environment in which both children and adults can discover the joys of browsing and reading. Since we bought our store, we have had the great pleasure of meeting hundreds of like-minded booksellers. It is therefore shocking, disappointing, and discouraging that the Department of Justice would act so as to allow a single corporation to use deep discounting to destroy the competitive market for bookselling and, with it, such important cultural institutions.

Since we bought Harvard Book Store and for the five years prior to our purchase of it, our store has seen an overall sales decrease. This is not because people in our city are reading less, but because a very large corporation, Amazon, has sought to use books as a loss leader so that it can peddle higher-margin items to the reading public. Their intent to dominate all markets is pretty transparent, but is particularly so in the e-book market. The Kindle makes it virtually impossible to obtain content from other sources; Amazon's pricing of content was often at cost or below. Their initial response to John Sargent's courageous move to the agency model -- namely removing all Macmillan titles, both digital and physical, from their catalog -- speaks dramatically to their scorched-earth tactics to destroy price competition. (It is also well documented that they have resorted to extreme measures to enhance their price advantage by refusing to collect sales tax -- shutting down distribution facilities and laying off hundreds of workers in states that have legitimately demanded payment.)

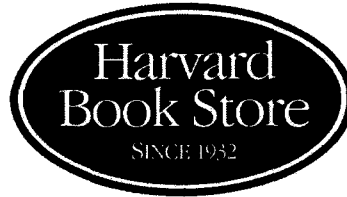
An important hope for a healthy competitive environment for the distribution of intellectual content is the establishment of a level playing field that would make predatory pricing impossible. I recently attended a seminar at our industry's trade show, BEA, in which European booksellers demonstrated the benefits of this

(cont.)

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type of market. In countries where deep discounting is not allowed, the number of brick-and-mortar outlets for books and the overall size of the market is significantly greater, on a per capita basis, than in the United States. In these countries, almost every village has a local bookstore.

It is inexplicable to me how the Department of Justice could have possibly reached the conclusion that the interests of competition are better served by returning to the situation that prevailed prior to the adoption of the agency model where Amazon was overwhelmingly dominant in the world of e-books. Since the adoption of the model Amazon's market share has declined noticeably. I have no doubt that, should the DoJ prevail, the effect will be to restore the status quo ante to the detriment of a competitive environment.

(It might be argued that the apparent successes of alternatives to the Kindle, such as the Barnes and Noble Nook, imply that the market has fundamentally changed. I would point out that, with few exceptions, all other players in this market depend on the profitable sale of content and are therefore ultimately unable to compete with Amazon. Amazon increasingly relies on sales of non-book items for both revenues and profits. So, we have an inherently uncompetitive situation where a retailer can forego profits in an entire market so as to secure a customer base for other products.

It is also incomprehensible that the DoJ could possibly conclude that such market domination is in the national interest. Culture and intellectual discourse are too important to be left in the hands of a large corporation for whom books are nothing more than a loss leader. We have seen hints of the dangers inherent in this situation when Amazon removed copies of 1984 that had been purchased on Kindles and when they removed "gay-themed" titles from their sales rankings, making a number of literary classics impossible to search for. The first case may have been to protect a copyright and the second may have been inadvertent, but they demonstrate a possible world where centralized power in the marketplace of ideas can be used for the suppression of discourse.

I strongly urge you to reverse a very unfortunate and ill-considered decision.

Yours sincerely,

Jeffrey Mayersohn, Owner

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