From: Murray, Brian (HarperCollins US)
Sent: Wednesday, January 20, 2010 9:46 PM
To: Murray, Brian (HarperCollins US)
Subject: RE: Apple thoughts....

After the meeting with Amazon, I'm inclined (barely) to bring Apple into the business and introduce the agency model. But it has to be on terms that work for Amazon, B&N and consumers. We need to discuss where the line in the sand is for us.

What if:
S&S, Hachette and MacMillan are all in with Apple and will force Amazon to go agency. There will be no choice - agency only.
RH and Penguin offer both models
What will Apple do if two or more majors don't meet their requirements?

One issue:
If we just do what Apple suggests - our ebook prices will go to $14.99 for most books and consumers could scream if they are no longer available from Amazon and B&N at $9.99.

From: Redmayne, Charlie
Sent: Wednesday, January 20, 2010 9:03 AM
To: Murray, Brian (HarperCollins US)
Subject: Apple thoughts....

Glad Rob could sleep!!

I think we find ourselves in an invidious position here. Having Apple competing with Amazon is a good thing but we are being asked to take sides – and to take sides against our second largest global partner and to do so by the end of the week!! The time frame is theirs and I think we need take our time with this to make sure we get it right. Ultimately they need us to agree this deal – their share price has rocketed on the back of offering a reading proposition – if they launch without a deal it will fall. This **IS** important to them and we need to leverage that.

I don't believe that any of us feel this is a great deal – and I question whether it is a good enough deal to give us the stomach to take on Amazon. The key issue for me is David Nagar's response. If he sees this as an aggressive move then he will fight it and Amazon have deep pockets. What would happen if they decide to radically cut the price of our hardbacks – that would really impact on our bricks and mortar partners – and how would Apple feel about selling a digital copy at $14.99 when the physical is on sale at Amazon for much less. The big win of the Agency model is that by us setting price we can protect the value of our hard covers – I think Amazon would turn on us in this very area. On top of this they could take the view that we are playing in their market so they will come and play in ours? – contract directly with all the top authors – offering them signing on fees and higher margins etc. – this all aside from the potential legal and consumer backlash.

I think we should try to persuade David Nagar to come into the agency model for our hardback releases – if we can do that then we should proceed – if we can't then I think this becomes very difficult. We are being asked to establish a market for Apple – and to take the hit both in margin and in the impact of Amazon's response. If we were successful we would be replacing one monopoly with another as without Amazon and with parity in price then Apple would quickly overpower the competition as they would be competing only on hardware solution with a huge consumer base already installed – we would be handing Apple a massive advantage.

We also have to think about what this leaves us for ourselves – our (and NewsCorp's) strategy is to do the best deals with the big three but to keep the crown jewels for ourselves – what does this leave us to work with?

I think we should sound out David Nagar – see if there is anyway we can go forward with him on this model – If we can't I don't see how we can go forward with Apple and we should push back on the terms, splits and non exclusive agent piece - we could also use it as leverage to negotiate better terms with Amazon. Ultimately we should be able to reach Apples consumers in other ways – App Store etc – not in such a great solution as ITunes but we can still reach them.

Shall we talk later?

Best

Charlie

From: Zaffiris, Robert
Sent: 20 January 2010 10:23
To: Murray, Brian (HarperCollins US); Redmayne, Charlie; Hulse, Leslie; Allessi, Ana Maria; Goff, Chris
Subject: Re: Apple thoughts....

After sleeping on it, one last thought. Apple is cutting a blanket agency deal to level the playing field and ultimately compete in two areas they feel good about--technology and iTunes. Our biggest strengths are our best sellers and breadth of titles from Apple's perspective. Maybe we agree to the terms to move quickly (as they seem inflexible on terms) but rather we argue that Apple is a non-exclusive agent by definition. We hide behind the definition of non-exclusive agent so that we retain the flexibility to pull a title out at any time or window in the future. This indirectly will give us the biggest benefit in that we retain our biggest weapon. I'd sign under these terms and I think they might too.

From: Zaffiris, Robert
To: Murray, Brian (HarperCollins US); Redmayne, Charlie; Hulse, Leslie; Allessi, Ana Maria; Goff, Chris
Sent: Tue Jan 19 23:01:11 2010
Subject: Re: Apple thoughts....

In terms of strategic wins, I would like to add:

1) Establishes a viable long term digital business model with economics on a dollar contribution basis that are equally attractive as our existing physical business.

2) Increases consumer catalog/choice of ebooks at uniform prices

In terms of other questions, I would like to add:

1) Is this a once-in-a-lifetime chance to flip the model?

2) Who gains more from signing by the 27th...Harper or Apple? Since Apple is demanding that all publishers be in the program, shouldn't we push for a harder deal knowing we won't be the odd man out. What will they bend on... the 30%? Hardcover rate? NYT rate? I think the NYT.

2) Should we start negotiating with B&N and others simultaneoulsy at a 20% cut since they're getting a free ride.

3) If we sign an agency deal what prevents us from raising prices in the future.

4) If we play this out, does it make sense to launch enhanced ebooks into the app store first, solidify the concept, and then flip to an agency model or is this our one shot? Not sure it does.

I will coordinate:

1) Children's and work with the UK.
2) Quantify the retaliation
3) Model the other royalty scenarios

Hope this helps.

From: Murray, Brian (HarperCollins US)
To: Redmayne, Charlie; Hulse, Leslie; Zaffiris, Robert; Allessi, Ana Maria; Goff, Chris
Sent: Tue Jan 19 22:12:34 2010
Subject: Apple thoughts....

Strategic wins from an apple deal as presented...
1) publisher gains control over consumer price and increased it from 9.99 to 12.99 or 14.99 for most books
2) terms create level playing field for multiple agency partners who all make a similar margin
3) secures publishers position as authors partner for multiple agency partners (a dozen or more partners)
4) creates a major competitor to Amazon - only google and apple can compete with Amazon and Apple looks more promising that Google right now.

Shortcomings from apple deal as presented
1) the only value creation for the publisher is through incremental sales given apple's pricing and splits (a poor outcome in my opinion)
2) a short term margin hit of $3 per unit. (painful!)
3) enhanced ebooks can't be windowed to create maximum value for publisher and author. (limits our ability to really set price by windowing)
4) expected retaliation from amazon because deal forces a move to an agency model. (we are giving Amazon $3 per unit and they will still retaliate)

Overall - I still think we need to take a step forward with Apple but it won't be easy.

Let's assume we move forward with Apple at the terms they suggested - what do we need to do? What are key issues to consider in the negotiation...

I assume we need to immediately begin to increase prices of most hardcover fiction to above $27.51 (Michael is looking at this)
We've focused on adult trade titles but how do the pricing grids work for childrens and Uk titles?
Should we tweak or set new tradepaperback and mass market pricing grids to give us more margin on the backlist? This could be critical....
Model author royalty (40% / 15% net on digital frontlist / backlist?) compared to current 25% of net across the board. (somehow I'd like there to be publisher value created in this digital transition and as far as I can tell there isn't any at all!)
Follow up with key agents on apple deal for feedback (Brian)
Negotiate with Apple for exceptions to "All ebooks available on sale with hardcover" or "to have some number of books available as exclusive enhanced ebooks" - key point is how do we negotiate some upward pricing flexibility into the contract. How do we negotiate flexibility or a pathway to a higher price point in this deal.
Can we negotiate so that if we get buy in from B&N for exclusive enhanced edition (with delayed standard ebook), we don't lose apple as a partner?
What are Apple's remedies in the contract if we have a disagreement? Will they continue to support our backlist if we disagree on new titles in 6 months? Can they penalize us? How?
What if in 6 months, we decide we have to move toward enhanced ebook windowing for 10 titles per month? We want the flexibility to do this because we may have to make this change for several authors.
What if we do an exclusive with B&N or Amazon on a particular title for a standard ebook - what are the implications in the contract with Apple?
Shouldn't HarperCollins authors get a better deal than small and medium sized publishers? What is the incentive for us to agree with Apple now?
Get buy in from B&N, Sony, Borders on agency terms and sharing of customer data before finalizing deal with apple.

Redacted

What are possible alternative scenarios if we don't come to terms with Apple?
1) Publisher consortium? Will publishers agree to anything?
2) App Store approach? Would Apple really keep us from launching in this store? What pricing would work for us?
3) What it B&N, Borders and Sony support release of enhanced only for a two month window where standard ebook is delayed. e.g. Apple doesn't have a choice.
4) From publisher's website
5) Would Google support the exclusive enhanced ebook?
Note: #3 or #5 are the most promising but maybe we can attempt that in 6 to 12 months...
Does anyone think there is a better alternative to a subpar deal with Apple?

Is it worth holding out for better terms? Would apple cave?

What are issues with Authors and Agents going direct to Amazon or Apple at this stage?
What are agent reactions going to be?
What are Google's reactions going to be?