



Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, FEBRUARY 8, 2013
WWW.JUSTICE.GOV

AT
(202) 514-2007
TTY (866) 544-5309

JUSTICE DEPARTMENT REACHES SETTLEMENT WITH MACMILLAN IN E-BOOKS CASE

Department Continues to Litigate Against Apple Inc.

WASHINGTON – The Department of Justice announced today that it has reached a settlement with Holtzbrinck Publishers LLC, which does business as Macmillan, and will continue to litigate against Apple Inc. for conspiring with Macmillan and four of the other largest U.S. book publishers to raise e-book prices to consumers.

Today’s proposed settlement was filed in the U.S. District Court for the Southern District of New York. If approved by the court, the settlement will resolve the department’s competitive concerns involving Macmillan. The department’s Antitrust Division previously settled its claims against four book publishers—Hachette Book Group Inc., HarperCollins Publishers L.L.C., Penguin Group (USA) Inc. and Simon & Schuster Inc.

On April 11, 2012, the department filed a lawsuit against Apple and the five publishers alleging they conspired to eliminate retail price competition, resulting in consumers paying millions of dollars more for their e-books. The settlement with Hachette, HarperCollins and Simon & Schuster was approved by the court in September 2012. The public comment period on the department’s settlement with Penguin will close on March 5, 2013. The trial against Apple is scheduled to begin in June 2013.

“As a result of today’s settlement, Macmillan has agreed to immediately allow retailers to lower the prices consumers pay for Macmillan’s e-books,” said Jamillia Ferris, Chief of Staff and Counsel at the Department of Justice’s Antitrust Division. “Just as consumers are already paying lower prices for the e-book versions of many of Hachette’s, HarperCollins’ and Simon & Schuster’s new releases and best sellers, we expect the prices of many of Macmillan’s e-books will also decline.”

According to the complaint, the five publishers and Apple were unhappy that competition among e-book sellers had reduced e-book prices and the retail profit margins of the book sellers to levels they thought were too low. To address these concerns, the department said the companies worked together to raise retail e-book prices and eliminate price competition, substantially increasing prices paid by consumers. Before the companies began their conspiracy, retailers regularly sold e-book versions of new releases and bestsellers for, as described by one of the publisher’s CEO, the “wretched \$9.99 price point.” As a result of the conspiracy, consumers

were typically forced to pay \$12.99, \$14.99 or more for the most sought after e-books, the department said.

Under the proposed settlement agreement, Macmillan will immediately lift restrictions it has imposed on discounting and other promotions by e-book retailers and will be prohibited until December 2014 from entering into new agreements with similar restrictions. The proposed settlement agreement also will impose a strong antitrust compliance program on Macmillan, including requirements that it provide advance notification to the department of any e-book ventures it plans to undertake jointly with other publishers and regularly report to the department on any communications it has with other publishers. Also for five years, Macmillan will be forbidden from agreeing to any kind of most favored nation (MFN) provision that could undermine the effectiveness of the settlement.

Macmillan has its principal place of business in New York City. It publishes e-books and print books through publishers such as Farrar, Straus and Giroux and St. Martin's Press. Verlagsgruppe Georg von Holtzbrinck GmbH owns Holtzbrinck Publishers LLC, which does business as Macmillan, and has its principal place of business in Stuttgart, Germany.

Hachette Book Group USA has its principal place of business in New York City. It publishes e-books and print books through its publishers such as Little, Brown and Company and Grand Central Publishing.

HarperCollins Publishers L.L.C. has its principal place of business in New York City. It publishes e-books and print books through publishers such as Harper and William Morrow.

Penguin Group (USA) Inc. has its principal place of business in New York City. It publishes e-books and print books through publishers such as The Viking press and Gotham Books. Penguin Group (USA) Inc. is the U.S. subsidiary of The Penguin Group, a division of Pearson plc, which has its principal place of business in London.

Simon & Schuster Inc. has its principal place of business in New York City. It publishes e-books and print books through publishers such as Free Press and Touchstone.

Apple Inc. has its principal place of business in Cupertino, Calif. Among many other businesses, Apple distributes e-books through its iBookstore.

The proposed settlement, along with the department's competitive impact statement, will be published in the Federal Register, consistent with the requirements of the Antitrust Procedures and Penalties Act. Any person may submit written comments concerning the proposed settlement within 60-days of its publication to John R. Read, Chief, Litigation III Section, Antitrust Division, U.S. Department of Justice, 450 Fifth Street, N.W., 4th Floor, Washington, D.C. 20530. These comments will be published either in the Federal Register or, with the permission of the court, will be posted electronically on the department's website. At the conclusion of the 60-day comment period, the court may enter the final judgment upon a finding that it serves the public interest.

###