



# Department of Justice

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## **STATEMENT BY ASSISTANT ATTORNEY GENERAL BILL BAER ON REMEDY TO ADDRESS APPLE'S PRICE FIXING OF E-BOOKS**

***Remedy Requires Apple to Modify Agreements with Five Publishers; Provides for a Court-Appointed External Monitor; Includes Anti-Retaliatory Provisions to Protect Publishers; Prohibits Apple from Engaging in Future Anticompetitive Conduct***

WASHINGTON – Assistant Attorney General Bill Baer of the Department of Justice's Antitrust Division issued the following statement today after the U.S. District Court for the Southern District of New York issued an order regarding a remedy to address Apple Inc.'s illegal conduct:

"We're pleased that the court has issued an order supporting the Department of Justice's efforts to address Apple's illegal price fixing conduct. Consumers will continue to benefit from lower e-books prices as a result of the department's enforcement action to restore competition in this important industry. By appointing an external monitor to ensure future compliance with the antitrust laws, the court has helped protect consumers from further misconduct by Apple. The court's ruling reinforces the victory the department has won for consumers."

The court's order requires Apple to modify its existing agreements with the five major publishers with which it conspired – Hachette Book Group (USA), HarperCollins Publishers L.L.C., Holtzbrinck Publishers LLC, which does business as Macmillan, Penguin Group (USA) Inc. and Simon & Schuster Inc. – to allow retail price competition and to eliminate the most favored nation (MFN) pricing clauses that led to higher e-book prices. Apple is prohibited from serving as a conduit of information among the conspiring publishers or from retaliating against publishers for refusing to sell e-books on agency terms. Apple is also prohibited from entering into agreements with e-books publishers that are likely to increase the prices at which Apple's competitor retailers may sell that content.

Additionally, the court has decided to appoint an external monitor to ensure that Apple's internal antitrust compliance policies will be sufficient to catch future anticompetitive activities before they result in harm to consumers. The monitor, whose salary and expenses will be paid by Apple, will work with an internal antitrust compliance officer who will be hired by and report exclusively to the outside directors comprising Apple's audit committee. The antitrust compliance officer will be responsible for training Apple's senior executives about the antitrust laws and ensuring that Apple abides by the relief ordered by the court.

On April 11, 2012, the department filed a civil antitrust lawsuit in the U.S. District Court for the Southern District of New York against Apple, Hachette, HarperCollins, Macmillan, Penguin and Simon & Schuster, for conspiring to end e-book retailers' freedom to compete on price by taking control of pricing from e-book retailers and substantially increasing the prices that consumers paid for e-books.

At the same time that it filed the lawsuit, the department reached settlements with three of the publishers – Hachette, HarperCollins and Simon & Schuster. Those settlements were approved by the court in September 2012. The department settled with Penguin on Dec. 18, 2012, and with Macmillan on Feb. 8, 2013. The Penguin settlement was approved by the court on May 20, 2013, and the Macmillan settlement on Aug. 14, 2013. Under the settlements, each publisher was required to terminate agreements that prevented e-book retailers from lowering the prices at which they sell e-books to consumers and to allow for retail price competition in renegotiated e-book distribution agreements.

The department's trial against Apple, which was overseen by Judge Denise Cote, began on June 3, 2013. The trial lasted for three weeks, with closing arguments taking place on June 20, 2013. The court issued its opinion that Apple Inc. violated Section 1 of the Sherman Act on July 10, 2013. The department and 33 state attorneys general submitted a proposed remedy to the court on Aug. 2, 2013. Apple submitted a separate remedy. The court held remedy hearings on Aug. 9 and 27, 2013, and asked the parties to revise their proposals. The department, 33 state attorneys general and Apple submitted a joint remedy to the court on Sept. 5, 2013.

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