

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

APPLE, INC.,
HACHETTE BOOK GROUP, INC.,
HARPERCOLLINS PUBLISHERS L.L.C.,
VERLAGSGRUPPE GEORG VON
HOLTZBRINCK GMBH,
HOLTZBRINCK PUBLISHERS, LLC
d/b/a MACMILLAN,
THE PENGUIN GROUP,
A DIVISION OF PEARSON PLC
PENGUIN GROUP (USA), INC., and
SIMON & SCHUSTER, INC.,

Defendants.

Civil Action No. 1:12-CV-2826

**PLAINTIFF UNITED STATES’
EXPLANATION OF CONSENT DECREE PROCEDURES**

Plaintiff United States of America (“United States”) submits this memorandum summarizing the procedures for entry of the proposed Final Judgment as set forth by the Antitrust Procedures and Penalties Act, 15 U.S.C. §§ 16(b)-(h) (the “APPA”), which applies in civil antitrust cases brought and settled by the United States. As described below, the APPA provides that certain events must occur prior to the Court signing and entering the proposed Final Judgment to resolve this case.

1. Today, Plaintiff has filed a Complaint, proposed Final Judgment, Competitive Impact Statement, and Stipulation and Order between Plaintiff and Defendants Hachette Book Group, Inc. (“Hachette”), HarperCollins Publishers L.L.C. (“HarperCollins”), and Simon & Schuster, Inc. (“Simon & Schuster”).

2. Only Hachette, HarperCollins, and Simon & Schuster have reached a settlement with the United States. Defendants Apple, Inc., Verlagsgruppe Georg von Holtzbrinck GmbH, Holtzbrinck Publishers, LLC d/b/a Macmillan, The Penguin Publishing Co. Ltd. d/b/a Penguin Group, and Penguin Group (USA), Inc. are not parties to the proposed Final Judgment and therefore the United States will proceed to litigate its case against those Defendants.

3. The Stipulation contains the parties' agreement that, after compliance with the APPA, the Court may enter the proposed Final Judgment. The APPA requires that Plaintiff publish the proposed Final Judgment and the Competitive Impact Statement in the *Federal Register* and in certain newspapers at least sixty (60) days prior to entry of the proposed Final Judgment. The notice will inform members of the public that they may submit comments about the proposed Final Judgment to the United States Department of Justice, Antitrust Division (*see* 15 U.S.C. §§ 16(b)-(c)).

4. During the sixty-day period, Plaintiff will consider, and at the close of that period respond to, any comments that it has received, and it will publish the comments and Plaintiff's responses in the *Federal Register*.

5. After the expiration of the sixty-day period, Plaintiff will file with the Court the comments and Plaintiff's responses, and Plaintiff either will ask the Court to enter the Final Judgment (subject to any proposed revisions) or will withdraw its consent to entry of the Final Judgment, as provided in Section 2 of the Stipulation and Order (*see* 15 U.S.C. § 16(d)).

6. If Plaintiff requests that the Court enter the Final Judgment after compliance with the APPA, 15 U.S.C. §§ 16(e)-(f), then the Court may enter the Final Judgment without a hearing, provided that the Court concludes that the Final Judgment is in the public interest.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES
OF AMERICA

s/ Daniel McCuaig _____
Daniel McCuaig
Nathan P. Sutton
Mary Beth McGee
Owen M. Kendler
William H. Jones
Stephen T. Fairchild

Attorneys for the United States
United States Department of Justice
Antitrust Division
Litigation III Section
450 Fifth Street, NW, Suite 4000
Washington, DC 20530
Telephone: (202) 307-0520
daniel.mccuaig@usdoj.gov

Dated: April 11, 2012

CERTIFICATE OF SERVICE

I, Stephen T. Fairchild, hereby certify that on April 11, 2012, I caused a true and correct copy of the foregoing Stipulation and attached Proposed Final Judgment to be served via electronic mail on:

For Defendant Apple, Inc.:

Richard Parker
O'Melveny & Myers LLP
1625 Eye Street, NW
Washington, DC 20006
rparker@omm.com

For Defendant Hachette Book Group, Inc.:

Paul Yde
Freshfields Bruckhaus Deringer LLP
701 Pennsylvania Avenue, NW
Suite 600
Washington, DC 20004-2692
paul.yde@freshfields.com

For Defendant HarperCollins Publishers L.L.C.:

Clifford H. Aronson
Skadden, Arps, Slate, Meagher
& Flom LLP
Four Times Square
New York, NY 10036-6522
clifford.aronson@skadden.com

For Defendants Verlagsgruppe Georg von
Holtzbrinck GmbH & Holtzbrinck Publishers,
LLC d/b/a Macmillan:

Joel M. Mitnick
Sidley Austin LLP
787 Seventh Avenue
New York, NY 10019
jmitnick@sidley.com

For Defendants The Penguin Group, A
Division of Pearson PLC & Penguin Group
(USA) Inc.:

Daniel F. McInnis
Akin Gump Strauss Hauer & Feld LLP
1333 New Hampshire Avenue, NW
Washington, DC 20036-1564
dmcinnis@akingump.com

For Defendant Simon & Schuster, Inc.:

Helene D. Jaffe
Proskauer Rose LLP
Eleven Times Square
New York, NY 10036-8299
hjaffe@proskauer.com

s/ Stephen T. Fairchild

Stephen T. Fairchild
United States Department of Justice
Antitrust Division
450 Fifth Street, NW, Suite 4000
Washington, D.C. 20530