

From: Deborah Schneider [mailto:debor[REDACTED]]
Sent: Monday, June 18, 2012 4:37 PM
To: Read, John
Subject: U.S. vs. Apple, Inc. et al., 12-cv-2826 (DLC) (SDNY)

Gelfman Schneider Literary Agents, Inc.

Incorporating
John Farquharson Ltd., New York
850 Seventh Avenue • New York, NY 10019
Telephone: (212) 245-1993
Fax (212) 245-8678

12 June 2012

John R. Read, esq.
Chief, Litigation III
Antitrust Division, United States Department of Justice
450 5th St., NW, Suite 4000
Washington DC 20530

ref: U.S. vs Apple, Inc., et al., 12-cv-2826 (DLC) (SDNY)

Dear Mr. Read,

My partner Jane Gelfman and I have been literary agents for thirty years. We do business with Amazon and all the major publishers. We are writing to say that we think the lawsuit against Apple and the five publishers is misguided and that the lawsuit should be dropped entirely.

The retail ebook market has been working well; it is robust, diverse and competitive. The authors represented by our agency have all seen their earnings grow as the ebook markets have grown. The only actual fixed price in the Agency Model is Apple's 30% share of the retail price. Harm from Agency Model pricing has come from the reduction of the authors' royalties from a percentage share of the actual retail price to a share of the publisher's 70% net proceeds of the price. Indeed, it was Apple's threat to remove the Kindle app from Apple products that forced Amazon and the publishers to adopt the Agency Model for selling ebooks.

This lawsuit will eliminate competition, not spur it. Amazon's retail business is so gigantic that they can afford to sell ebooks at a price lower than their cost, as a loss leader to steer customers to all their other consumer products. This aggressive discounting diminishes the value of an ebook, the value of an author's creation, his

intellectual property. Our authors have benefited from the current market that prices e-books slightly lower than their print counterparts. Ebooks maintain their value as commodities and as protected intellectual properties. With this lawsuit, a decision against the five publishers will push our business firmly toward Amazon as a single marketplace for bookselling. It will favor Amazon to such a degree that not only will the commercial value of an ebook be diminished, but it will force other publishers out of business if they cannot compete in a market in which one retailer is enormously advantaged. Ebook pricing is not a result of collusion. Where ebook pricing is uniform, it has been a result of market forces settling at a reasonable and satisfyingly competitive level.

The marketplace is not broken. Profit margins in book publishing are small. American publishers are trying to stay viable in a difficult economy. Why not go after corporations whose commercial practices have harmed the welfare of the entire American economy? Your lawsuit threatens to harm a struggling but still viable industry and one of the few that makes a contribution to American culture.

Sincerely,

Deborah Schneider
Jane Gelfman

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