

From: c[REDACTED] [mailto:c[REDACTED]]
Sent: Monday, June 25, 2012 9:10 AM
To: Read, John [John.Read@ATR.USDOJ.gov]
Subject: Suit against Apple and 5 Publishers

M. O'Brien

Rd.

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John R. Read, Chief
2012

Litigation III Section

Antitrust Division

U.S. Department of Justice

450 5th Street, NW, Suite 4000

Washington, DC 20530

Dear Mr. Read:

I urge the Department of Justice to drop the April 11th suit against Apple and five publishers who are accused of colluding to limit price competition for ebooks. I'm particularly troubled by the suit's claim that "Together, Apple and the Publisher Defendants reached an agreement whereby retail price competition would cease (which all conspirators desired), retail e-book prices would increase significantly (which the Publisher Defendants desired), and Apple would be guaranteed a 30 percent 'commission' on each e-book it sold (which Apple desired)" (p. 3). I fail to see how collusion could exist, let alone be driven by these reasons, when the consequences of the agency model have actually allowed for a wider variety of prices of ebooks.

As an author, I value the right of my publisher to set the price of my intellectual property on my behalf. For example, because my publisher, Macmillan, controls the price of my ebooks, we were able to reduce the price of the first novel in my series (the *Birthmarked* trilogy) from \$9.99 to \$2.99 for a limited time to coincide with the release of the second novel. We could do so uniformly across platforms (Kindle, Nook, etc.) and for the short-term, undercut our own sales of the same traditionally published book in brick and mortar stores. This was our choice and our right, and it worked to increase visibility for the series in traditional book format, too.

Ms. Caragh

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June 20,

The low price for a focused time benefited my publisher, the ebook distributors, traditional booksellers, the consumer, and me, and would not have been possible under the preexisting wholesale model of pricing. What is key here is that my publisher and I could take the risk. We could control the price of my intellectual property in ebook format and knowingly compete in the market. The flexibility of this arrangement, multiplied over countless ebooks and their publishers, allows for an infinite variety of pricing. The opposite was true when Amazon controlled 90% of ebook sales and dictated prices.

Furthermore, the nature of selling ebooks is inherently different from selling physical books. Ask anyone who has ever tried to resell an ebook to a used book store and that concept is immediately clear. Allowing Amazon to set prices as if it were a traditional bookseller with physical merchandise on hand is the equivalent of letting a toll booth operator decide the value of the cars going by. It's just wrong.

Finally, I'd like to point out that Apple offered an innovative and fair alternative to Amazon's stranglehold on the ebook market. Apple competed fairly. Amazon has the right to compete fairly, too, if it chooses for instance to take a cut less than the 30% that Apple offered the Publisher Defendants or come up with yet another model. The problem is not Apple, the Publisher Defendants, or the agency model. The problem was the absolute domination of a single ebook distributor.

Please drop the Department of Justice's suit against the defendants.

Sincerely,
Caragh M. O'Brien