

**Leland E. Modesitt, Jr.**  
**255 South Sunnyview Road**  
**Cedar City, Utah 84720**

May 12, 2012

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

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LITIGATION III, ANTITRUST DIV.  
U.S. DEPT. OF JUSTICE

Dear Mr. Read:

The Department of Justice lawsuit, and the ensuing settlements with three major publishers, recently announced by the Department of Justice, demonstrates that the government not only does not understand the publishing business, let alone the emerging ebook field, but is also engaging in political theatrics in an election year while actually restricting competition in the publishing field under the guise of fostering it.

As a successful writer of science fiction and fantasy for more than thirty years, and also as a former staff director for a member of Congress and a former appointee in the executive branch, with more than twenty years of experience in and around national politics, not to mention education and background as an economist, I think it's fair to say that I have some understanding of economics, publishing, and politics.

At the time immediately before the adoption of the so-called "agency model" by Macmillan, Apple, and other publishers, Amazon had established a clear monopoly position in the ebook field, accounting for roughly 90% of all ebook titles being sold. Amazon built this position by discounting the prices of best-selling and popular ebooks to \$9.99, a price at which Amazon lost money on every unit sold. Amazon was able to finance these losses by essentially subsidizing them not only from its book-selling operations, but also from its entire massive retail operations. Those operations have a far higher profit margin than does bookselling.

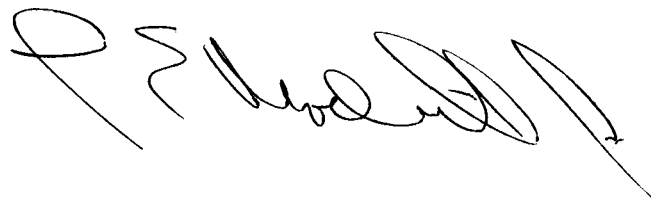
Thus, in effect, Amazon engaged in predatory pricing, financed by outside sources of income, against other booksellers who did not have access to such funding, and thereby established a monopoly position, and that monopoly position allowed it to charge much higher prices, as allowed under the former wholesale model, for non-best-selling books. This pattern of behavior strongly suggests that any short-term lowering of prices by Amazon was designed as strictly temporary in order to obtain and maintain a monopoly position that would eventually result in higher overall prices..

In addition, while this excessive discounting in pursuit of a monopoly position did not, in and of itself, result in the economic collapse of Borders, the second largest bookstore chain in the United States, it was a clear contributing factor.

Since the establishment of the agency model by the publishers, not only have overall ebook prices declined, but Amazon's share of the ebook market has dropped from roughly 90% to the 60-65% range. These factors strongly suggest that, even if the alleged collusion did occur, which has yet to be proved in court, it caused no consumer harm.

I have no objections to DOJ issuing a series of guidelines and practices, but for the Department of Justice to seek monetary damages against publishing firms already dealing with some of the leanest years in publishing, who adopted the agency model in defense against monopolistic predatory pricing, monopolistic practices which DOJ effectively ignored, seems more than excessive.

Sincerely,

A handwritten signature in black ink, appearing to be "P. E. ...", written in a cursive style.