

Donald S. Lamm  
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donlamm[REDACTED]

April 19, 2012

Mr. John Read  
Chief, Litigation III Section  
Antitrust Division  
U.S. Department of Justice  
450 5th Street NW Suite 4000  
Washington, DC 20530

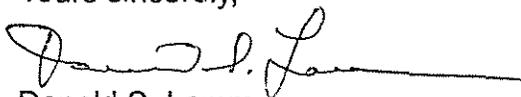
Dear Mr. Read:

In response to the invitation for comment on the impending action in Judge Denise Cote's courtroom in regard to the Department of Justice action against book publishers, I write in hope (but not expectation) that someone in the Antitrust Division will consider the attached printout of an email message I sent to then assistant attorney general, Sharis A. Pozen. The automated response reminded me of my days in the military when communications were treated to a "file and forget" mentality.

I won't reiterate the points made in the attachment other than to emphasize that book publishing in common with newspapers and periodicals is experiencing losses of revenues that appear to be irreversible. Even if the interests of book publishers are not of particular concern to the Department of Justice, those of authors and the remaining booksellers in this country might be. And the prospect of one entity, Amazon, acquiring monopoly power over the book industry is a real and present consequence of the Antitrust Division's actions. I am sure there is a better way to serve the declining market of book purchasers in this country than by placing the future of books mainly in the hands of one provider for whom books are a mere gateway to selling a raft of higher priced consumer products.

Although trade (or general) book publishers will be most critically affected by the antitrust suit, it will also allow Amazon to dictate terms to university presses in this country. I might note that in addition to my service as head of an independent publishing company (W.W. Norton), I served as chairman of the board of Yale University Press for roughly twenty years and as a board member of five other academic presses. So I know slim or nonexistent profit margins when I see them.

Yours sincerely,

  
Donald S. Lamm

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

From: "ATR-Antitrust - Internet" <ANTITRUST.ATR@usdoj.gov>  
Subject: **RE: Attn: Sharis A. Pozen, Assistant Attorney General**  
Date: March 9, 2012 7:16:49 AM MST  
To: "Donald Lamm" <donlamm[REDACTED]>

Dear Mr. Lamm:

Thank you for contacting the Antitrust Division of the U.S. Department of Justice. The Citizen Complaint Center has reviewed your complaint, and we have forwarded it to the appropriate legal staff for further review. We have your information on file and should legal staff need further information, they may contact you in the future.

We appreciate your interest in the enforcement of federal antitrust laws.

Sincerely,

Citizen Complaint Center  
Antitrust Division  
Department of Justice

-----Original Message-----

From: Donald Lamm [mailto:donlamm[REDACTED]]  
Sent: Thursday, March 08, 2012 6:28 PM  
To: ATR-Antitrust - Internet  
Subject: Attn: Sharis A. Pozen, Assistant Attorney General

Dear Ms. Pozen -- I am sure you have much to deal with in your closing weeks in the anti-trust division. So I will be brief. The news that the Department of Justice is seeking to overturn the agency agreement of the largest book publishers in regard to e-books is thoroughly dismaying to this reader and, I'm sure, thousands of others. Some kind of price maintenance may be the last survival route for an industry (if book publishing rises to that description). Whatever royalties authors can hope to achieve, whatever profits can be anticipated by risk-laden enterprises will no doubt be dashed if e-books, like much else in book publishing, is left to an online enterprise that essentially exercises monopoly power.

I refer, of course, to Amazon. May I respectfully point out that Amazon meets the classic definition of a vertically integrated corporation. Now that it has established its own publishing division, it is positioned to cherry-pick bestselling authors, produce their works in print and e-book forms, and sell those books at prices that imperil the existence of the remaining retail bookstores. While I understand the rationale for questioning the agency model for e-books, isn't the greater threat the concentration of book publishing essentially in one enterprise that might soon control almost the entire business of books, potentially bringing its downfall?

Yours sincerely,

Donald S. Lamm

P.S. Full disclosure: For well over two decades I was president and chairman of W.W. Norton & Company, perhaps the largest independent book publisher in the nation and the only one of size wholly owned by its employees. Retired for some time, I write on my own, without prompting from any publisher or publishing company.