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Sent: Friday, June 15, 2012 4:09 PM  
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Cc: Fairchild, Stephen  
Subject: United States v. Apple, Inc. et al., No. 12-CV-2826(DLC)  
(S.D.N.Y.) - Comments on Proposed Final Judgment as to Defendants  
Hachette, HarperCollins, and Simon & Schuster

United States v. Apple, Inc. et al., No. 12-CV-2826(DLC) (S.D.N.Y.) -  
Comments on Proposed Final Judgment as to Defendants Hachette,  
HarperCollins, and Simon & Schuster

I would like to say that Amazon's predatory pricing is as illegal as the collusion among the publishers and the DOJ should be looking at that too. It interferes with normal market forces that would have enabled the market to dictate the price of books, which is how it should be. But so does collusion between the major players.

I am both a writer and a reader and the market needs to balance itself without undue interference. Some people are willing to pay list price for a hot new hardback; others wait for the price to come down. Still others wait for the paperback or resale market. Where ebooks will fit into this scenario never had a chance to be determined because first Amazon, and then the publishers, started tampering with the market before it had a chance to settle itself. Personally, I would like to see a scenario where the publishers and authors don't need to care about which format a customer wants because they make the same profit from each. But what the publishers wanted to do was make MORE profit from the format that actually cost the least to produce and distribute -- the ebook sold online -- so they could protect the market for the most costly format -- the hardback sold through B&M bookstores. The unfairness of this was obvious to everyone except the publishers themselves.

I'm a voracious reader but I can't tell you the last time I bought a book anywhere but on Amazon. I think maybe in pre-kindle days when I forgot to pack a paperback and picked one up at the airport, maybe five years ago. While I still love the smell of printer's ink and occasionally step into a bookstore just to smell it, dinosaurs will die out no matter what we wish or hope.

As for the settlement of this lawsuit: I think it is wrong to punish the publishers without ALSO sanctioning Amazon for its predatory pricing policies. And I say that as an Amazon customer and Kindle owner who BENEFITS from that predatory pricing. But I'm also an author; when I recently found a site where I could have downloaded pirated copies of all the books of my favorite author, I did not download a single copy -- instead I alerted the author's handlers to the piracy. I try to play fair, and as an author I hope people will be fair with me in the purchase of my books.

Perceived unfairness in pricing gives rise to pirate sites, and mollifies the consciences of those who would use them. The publishers may have already shot themselves in the foot just by engaging in this action. But an over-reaction by the DOJ to the "crime" in question will not help; instead it will reinforce in the minds of the buying public that they have been dealt with unfairly and they can retaliate by taking advantage of pirating opportunities.

I think the best action the DOJ can take is to order Amazon that they may not sell books below cost unless they are MEETING legitimate competition in the marketplace. Likewise the publishers need to be told to set a price at which they are willing to sell their books and not concern themselves with what the purchaser does with that book (or file) or whether it respects the list price or makes a profit in re-selling it. We don't need the convoluted settlement that has been proposed, which is only going to add regulatory costs that ALL of us will pay, trying to police the thing (yes, I've read it and it's a nightmare).

But you must also control Amazon. They are getting way too much power in this market. I love Amazon and buy from them all the time, but the prospect of having ONLY Amazon to go to scares the hell out of me.

Please let the market balance itself by admonishing both publishers and Amazon to obey the laws that exist. The DOJ contributed to the collusion by failing to rein in Amazon in the first place. Fine them appropriately but don't replace what we have with over-regulation that will further favor Amazon -- who caused this situation by their own unfair pricing policies.

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