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

New England Independent Booksellers Association

April 13, 2012

Dear Members and Friends of NEIBA,

As President of the New England Independent Booksellers Association I am compelled to respond to the filing by the Department of Justice against five major US publishers and Apple for collusion. Three have settled, while Penguin and Macmillan have decided to fight this lawsuit in court. This fight will be long and arduous, not to mention costly, yet, vital to maintain and foster the future of healthy publishing and bookselling. As independent booksellers, we should applaud both the publishers and Apple for standing their ground.

The DOJ lawsuit rototilled the publishing world's playing field to make it as uneven as possible in order to pave the way for a monopoly to exist. To quote members of the industry, "this move will likely revert to a situation where a near-monopoly power determines pricing and most other retailers see their already-smaller market share shrink." The decision by the DOJ puts Amazon back on the top tier where they can manipulate the price of ebooks, thereby monopolizing the ebook market. The agency model is one that offers consumers the prospect of an open and competitive market for ebooks, "breaking Amazon's monopolistic grip on the publishing industry" and creating a level playing field for everyone, from publishers to Barnes & Noble to our independent bookstores.

Oren Teicher, CEO of the American Booksellers Association, stated that he is baffled by the DOJ's decision and, frankly, so am I. With Google no longer selling ebooks through the independent bookstores as of 2013, and with the DOJ's decision, Amazon's ebook market share just jumped from 60% back to 90%. As Scott Turow of the Authors Guild says, "The irony bites hard: our government may be on the verge of killing real competition in order to save the appearance of competition. This would be tragic for all of us who value books, and the culture they support."

I received a letter from John Sargent, CEO of Macmillan, after the lawsuit was filed. John Sargent writes a clear, honest and passionate account of his decision to fight this suit. He recognizes the predatory evil in Amazon's desire to take over the publishing world, regardless of the people involved. John Sargent has stepped up to the plate with his bravery and independent thinking. In Penguin's decision Chairman and CEO John Makinson says "any other decision would have been a disservice in the long term to our staff and our shareholders, but also to the writers, booklovers, retailers and agents whom we serve." As independent booksellers, we salute them both.



Annie Philbrick  
President  
Owner, Bank Square Books  
Mystic, CT

Bank Square Books  
53 West Main Street  
Mystic, CT 06355  
860-536-3795/banksquareb

Dear Senator Blumenthal,

I am very concerned that the DOJ's investigation into supposed price fixing with regard to e-books is ignoring the real story and the actual ramifications of a decision in favor of Amazon.com.

The story linked below, from Amazon's hometown newspaper, paints a vivid portrait of a company intent on abusing the book business to lure new customers into the fold.

Whether it is demanding exclusive discounts from suppliers, selling books at a loss, or practicing sales tax avoidance with a vengeance, Amazon continues to prove itself a truly awful corporate citizen.

And now, it seeks to sway the DOJ to do what Amazon was unable to -- bully publishers to change the agency price model and allow Amazon to destroy the e-book market with predatory pricing. The notion that Amazon selling e-books at below-cost prices is good for consumers is nonsense. The company wants to use e-books as a loss leader to attract new business and to kill off competition. That will, of course, lead to fewer choices for consumers and, eventually, higher prices.

I hope you will keep the DOJ on your radar and view its efforts through perhaps a different filter. This is a power grab orchestrated by Amazon, and the Seattle Times article shows why that should be troubling.

Respectfully,

Annie Philbrick  
Owner/President of New England Independent Booksellers Association

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