watchung booksellers
YOUR COMMUNITY BOOKSTORE

54 Fairfield Street
Watchung Plaza
Montclair, NJ 07042
watchungbooksellers.com
info@watchungbooksellers.com

24 June 2012

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

Dear Mr. Read,

I am submitting my letter in consideration for the DOJ suit against Apple and the five major publishers regarding the Agency Model for ebook pricing.

We are an independent bookstore located in Montclair NJ, a suburb of Newark, NJ and New York City. Watchung Booksellers has been in business for 20 years. We are solid citizens of the community, dutifully collecting sales tax that supports the infrastructure of our town and our state. We are a brick and mortar store trying to remain relevant and current in serving our loyal readers. We are members of the American Booksellers Association and thus utilize their website to offer our customers the service of ordering books and ebooks online.

The advent of ebooks have brought a lot of change to our industry. Traditionally, publishers released books in hardcover, at a price determined by them - the “list price” that reflected the cost of producing the books: fees and royalties to the author, costs of editorial, marketing, advertising, printing and distribution. Audio books were usually released simultaneously with the hardcover release, and prices reflected production costs as well as the costs of the content, thus prices were set somewhat higher than the hardcover. Paperback versions are released a year later, at a price set by the publishers, usually half of the hardcover price. When ebooks were introduced to the market, there was much discussion about the timing of distribution and the cost. If the ebook was released at the time of the hardback release, the price was set to match the hardcover price, because the value of production (not just physical production, but the author, editorial, marketing and all support costs) was equivalent to the value of the hardcover book.

The tradition of setting a price, and printing it on the product, make books an easy commodity for some retailers to use as loss leaders for their establishments. “Big Box” stores and then online purveyors quickly used books as a come-on for their customers to lure them in and create an atmosphere of deep discounts. These retailer decided that books would be sold at a loss and profits would be realized on sales of other goods. This practice was aggressively adopted by Amazon.com. In fact, many books were sold below cost (less than the cost of obtaining the item) to lure in customers. Their goal was simply to aquire customers, capture their information, and make a profit from selling other items. In the tradition of capitalism, this is each businesses right to practice commerce as they see fit.

However, Amazon.com was so aggressive about obtaining market share that they undersold so deeply and influenced consumers into thinking that a book was worth no more than $9.99. This was a commodity that Amazon did not produce. They were setting a value and then ended up using their influence as one of the largest retailers to dictate to a producer what the value of their product should be. At the onset, when ebooks were still priced according to the value of the hardcover book, smaller businesses were at a huge disadvantage. Independent businesses, without investor backing, could not underprice products simply to gain market share. Independent bookstores, which are in business to sell books, needed the margin of profit to cover operating costs.

The agency model helped stem this blood bath. If all retailers sold ebooks at a standard price, one that was slightly higher than the arbitrarily determined rock-bottom price, but still decidedly less than the value of the finished product, the market for ebooks could be widened. Thus independent booksellers, as well as any purveyor, could participate on a level playing field and offer ebooks to their customers.

The agency model actually supports diversity in the market and prevents any one retailer from dominating the market. We all know what happens when a business tries to capture the market by underselling its competitors. The practice continues until all the competition is eliminated. When the "winner" is the sole purveyor and their monopoly is secure, they raise prices to benefit themselves and the consumer is held captive without any recourse.

Then we have a real anti-trust situation.

Sincerely,

Margot Sage-EL
Owner
Watchung Booksellers
Montclair, NJ 07042