Tennessee Attorney General Joins Multistate Lawsuit against U.S. Publishers Regarding Alleged E-Books Price-Fixing
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Tennessee Attorney General Bob Cooper and 15 state attorneys general today filed suit against three of the nation’s largest book publishers and Apple Inc., alleging they colluded to fix the sales prices of electronic books (e-books). The suit was filed today in U.S. District Court in Austin, Texas. It cites the defendants for violating the States’ antitrust laws and the federal Sherman Antitrust Act.

"The ultimate result with price-fixing is that consumers pay more than they would have in a free marketplace,” Attorney General Cooper said. "Our joint lawsuit alleges three of the nation’s largest publishing companies worked together to gain control of retail prices, allowing publishers to raise the price of e-books.”

The States’ antitrust action stems from a two-year investigation in conjunction with the states attorneys general and the Department of Justice, into allegations that the defendants conspired to raise e-book prices. For years, retailers traditionally sold e-books through a wholesale distribution model, under which retailers rather than publishers set e-books' sales prices. However, the investigation alleged revealed that Penguin, Simon & Schuster and Macmillan conspired with other publishers and Apple to artificially raise prices by imposing a distribution model in which the publishers set prices for bestsellers at $12.99 and $14.99.

When Apple prepared to enter the e-book market, the publishers and Apple agreed to adopt an agency distribution model as a mechanism to allow them to fix prices. To enforce their price-fixing scheme, the publishers and Apple relied on contract terms that forced all e-book outlets to sell their products at the same price. Because the publishers agreed to use the same prices, retail price competition was eliminated.

According to the States’ enforcement action, the coordinated agreement to fix prices resulted in e-book customers paying more than $100 million in overcharges.

Today’s action seeks to reverse the effects of the defendants’ anti-competitive conduct as well as pay damages for customers who paid artificially inflated prices for e-books.

The states have reached an agreement in principle with Harper Collins and Hachette to provide significant consumer restitution nationwide and injunctive relief.

Those participating in today's enforcement action include Alaska, Arizona, Colorado, Connecticut, Illinois, Iowa, Maryland, Missouri, Ohio, Pennsylvania, South Dakota, Tennessee, Texas, Vermont and West Virginia.