Texas Attorney General Charges Three U.S. Publishers with Antitrust Law Violations, Price-Fixing for E-Books

AUSTIN – Texas Attorney General Greg Abbott and 15 state attorneys general today charged three of the nation’s largest book publishers and Apple Inc. with colluding to fix the sales prices of electronic books. The States’ antitrust case, which was filed in federal court in Austin, cites the defendants for violating the States’ antitrust laws and the federal Sherman Antitrust Act. Texas Attorney General Greg Abbott issued the following statement:

“Colluding to fix prices violates antitrust laws and raises costs for customers. In this case, three of the nation’s largest publishing companies worked together to gain control of retail prices and raise the price of e-books. The defendants colluded to use the agency distribution model to effectively eliminate free market competition and allow publishers – rather than the marketplace – to set the price of e-books.”

Media links

States’ antitrust action against publishers, Apple Inc.

The States’ antitrust action stems from a two-year investigation, led by the Texas Attorney General’s Office and coordinated with the offices of the Connecticut Attorney General and the U.S. Department of Justice, into allegations that the defendants conspired to raise e-book prices. For years, retailers sold e-books through a traditional wholesale distribution model, under which retailers – not publishers – set e-books’ sales prices. However, the investigation 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 the 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.

The States’ antitrust action seeks injunctive relief to reverse the effects of the defendants’ anti-competitive conduct as well as 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 as well as injunctive relief.

Texas was joined in today’s enforcement action by Alaska, Arizona, Colorado, Connecticut, Illinois, Iowa, Maryland, Missouri, Ohio, Pennsylvania, Puerto Rico, South Dakota, Tennessee, Vermont and West Virginia.
Defendants named in the States’ antitrust action:
• Penguin Group (USA) Inc.
• Simon & Schuster Inc.
• Macmillan Holdings LLC
• Apple Inc.