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Two U.S. Publishers and Apple, Inc. Charged with Price-Fixing for E-books that Resulted in more than $100 Million of Overcharges

AG Coakley Seeks Consumer Restitution for Overcharges; Joins 33 States Over Alleged Collusive Agreements to Raise E-book Prices

BOSTON – Alleging that two of the nation’s largest book publishers and Apple Inc. colluded to raise the prices of electronic books and undermine free market competition, Attorney General Martha Coakley joined 33 Attorneys General today seeking to file a complaint in the United States District Court for the Southern District of New York claiming violations of state law and the federal Sherman Antitrust Act.

“Collusion among competitors to raise prices is one of the most fundamental harms prohibited by antitrust law,” AG Coakley said. “We allege that through their actions the defendants and their co-conspirators collected more than $100 million worth of overcharges from consumers across the country.”

For years, retailers sold e-books through a traditional wholesale distribution model, under which retailers – not publishers – set sales prices. The complaint alleges, however, that Penguin 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.

The complaint further alleges that when Apple prepared to enter the e-book market with the iPad and iBookstore, it agreed with publishers to adopt an agency distribution model as a mechanism to allow them to fix prices. This guaranteed Apple a 30-percent gross margin on the sale of e-books. It also provided the publishers the ability to raise e-book prices.

To enforce the scheme, the publishers and Apple relied on contract terms that allowed the publishers to set the prices of e-books. According to the states’ enforcement action, the coordinated agreement to fix prices resulted in e-book customers paying more than $100 million in overcharges nationwide.

The 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.

Massachusetts was joined in today’s enforcement action by Texas, Connecticut, Alabama, Alaska, Arizona, Arkansas, Colorado, Delaware, the District of Columbia, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Michigan, Missouri, Nebraska, New Mexico, New York, North Dakota, Ohio, Pennsylvania, Puerto Rico, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, and Wisconsin. Sixteen of these states filed the original complaint against the same defendants on April 11.

This case is being handled by Michael Franck, Assistant Attorney General, and Helen...
Hood, paralegal, in Attorney General Martha Coakley’s Antitrust Division, as well as William Matlack, Chief of the Antitrust Division.

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