PRESS ADVISORY

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Georgia Joins $69 Million Multi-State Agreement with Three Major U.S. Publishers Over E-Book Price-Fixing Allegations

Georgia Attorney General Sam Olens, along with 54 attorneys general in other states, districts and U.S. territories, announced today that they have reached an antitrust settlement with three of the largest book publishers in the United States. Hachette Book Group Inc., HarperCollins Publishers L.L.C. and Simon & Schuster Inc. have agreed to pay a total of more than $69 million to consumers to resolve antitrust claims of an alleged unlawful conspiracy to fix the prices of electronic books (E-books). They have also agreed to change the way they price E-books going forward. Consumers in Georgia are expected to receive up to $2,014,433.00 in total compensation.

Consumers eligible for restitution will be notified by the retailers from which they purchased their E-Books.

The settlement occurs in conjunction with a civil antitrust lawsuit filed yesterday in U.S. District Court for the Southern District of New York against Hachette, HarperCollins, and Simon & Schuster. In the lawsuit the States allege that the three settling publishers and others, including non-settling publishers Macmillan and Penguin (collectively, the "Agency Five" publishers), "conspired and agreed to increase retail E-book prices for all consumers" and "agreed to eliminate E-book retail price competition between E-book outlets, such that retail prices to consumers would be the same regardless of the outlet patronized by the consumer."

The lawsuit and the settlement stem from a two-year antitrust investigation conducted jointly by the Connecticut and Texas Attorneys General and U.S. Department of Justice’s Antitrust Division. That investigation developed evidence that the Agency Five conspired to end E-Book retailers' freedom to compete on price by taking control of pricing from E-Book retailers and substantially increasing the prices that consumers paid for E-Books. As a result of this conduct, the States allege that consumers paid millions of dollars more for their E-books.

"Our legal action sends a strong message that attorneys general will not tolerate price-fixing, which results in higher prices for consumers" Attorney General Olens said. "Today’s settlement with three publishers paves the way for restitution for those consumers harmed by the scheme." Olens added, "In addition to the compensating consumers who overpaid for E-Books, this settlement will restore competition in the E-Book market by promoting E-Book competition among retailers."

Under the proposed settlement agreement, which the court must approve, Hachette, HarperCollins and Simon & Schuster will compensate consumers who purchased E-books from any of the Agency Five during the period of April 1, 2010 through May 21, 2012. Payments will begin 30 days after the court approval of the settlement becomes final. The settling defendants will also pay approximately $7.5 million to the states for fees and costs.

In addition to paying the $69 million consumer compensation, Hachette, HarperCollins and Simon & Schuster have agreed to terminate their existing agency agreements with certain retailers, requiring the publishers to grant those retailers—such as Amazon and Barnes & Noble—the freedom to reduce the prices of their E-book titles. For two years they will be prohibited from making any new agreements that constrain retailers’ ability to offer consumer discounts or other promotions which encourage the sale of E-Books.

The proposed settlement agreement also precludes these three publishers from further conspiring or sharing competitively sensitive information with their competitors for five years. Also for five years, Hachette, HarperCollins and Simon & Schuster will be forbidden from agreeing to any kind of Most Favored Nation clause that could undermine the effectiveness of the settlement agreement.