AG Gansler Secures $69 Million Agreement with Major U.S. Publishers Over E-Book Price-Fixing Allegations

Maryland consumers to receive up to $1.64 million

Baltimore, MD (Aug. 29, 2012) - Attorney General Douglas F. Gansler, joined by 54 attorneys general from other states, U.S. territories and the District of Columbia, announced today that an antitrust settlement has been secured with three of the nation's largest book publishers. Under the settlement, Hachette Book Group, Inc, HarperCollins Publishers L.L.C. and Simon & Schuster Inc. have agreed to pay more than $69 million to consumers, resolving antitrust claims of an alleged unlawful conspiracy to fix the prices of electronic books, also known as e-books. Maryland consumers will receive up to $1.64 million from the settlement.

"Collusion by these publishers has cost consumers millions of dollars more for the most popular e-book titles" said Attorney General Gansler. "While consumers will be reimbursed, this settlement also promotes competition among e-book retailers from here on out."

Under the settlement, these three major publishers must allow all online retailers to competitively price all e-books in the future. Pending litigation against the remaining defendants in this case may provide additional consumer protections and cash restitution.

The settlement occurs in conjunction with a civil antitrust lawsuit filed today in U.S. District Court for the Southern District of New York against Hachette, HarperCollins and Simon & Schuster. That lawsuit and another suit filed last May allege that the three settling publishers and others, including Apple, Inc. and non-settling publishers Holtzbrinck Publishers LLC (Macmillan) and Penguin Group, Inc., arranged to increase retail e-book prices and eliminate retail price competition among e-book retailers. The lawsuit alleges that as a result of the publisher's illegal actions, retail prices for certain e-books remained the same regardless of where the consumer shopped, causing consumers to pay millions of dollars more for their purchases.

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 five publishers during the period of April 1, 2010 through May 21, 2012. Under federal antitrust law, any member or group involved in an alleged conspiracy to fix prices may be liable for the entire injury caused by their illegal agreement.

If and when the settlement is approved by the court, the amount of reimbursement per book will...
range from $0.25 to $1.32. The amount recovered depends on whether the books were on the New York Times bestseller lists (Fiction, Non-Fiction and Advice) at the time of purchase and, if not, whether the purchase was made more or less than one year after initial publication.

In most cases, consumers may choose to receive the value of their restitution by check or by crediting the amount to future purchases of e-books. E-book retailers Amazon, Barnes & Noble, Apple and Kobo have agreed to identify and contact each eligible customer by email.

Retailers Google and Sony will also notify affected customers. Sony will inform customers that checks will automatically be issued. Google customers will be directed to submit a claim on a settlement website. Any consumer who wishes to receive a check instead of a credit will be able to go to the Settlement website, provide information and receive a check.

Payments will begin 30 days after 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 reimbursing consumers, Hachette, HarperCollins and Simon & Schuster have agreed to terminate their existing agency agreements with certain retailers, giving retailers like Amazon and Barnes & Noble the freedom to reduce the prices of their e-book titles. For two years, publishers will be prohibited from entering into any new agreements that constrain retailers' ability to offer consumer discounts or other promotions that encourage the sale of e-books.

This lawsuit and today's settlement stem from a two-year antitrust investigation initiated jointly by State Attorneys General and the U.S. Department of Justice's Antitrust Division.

In the separate action, trial for non-settling publishers Holtzbrinck Publishers LLC (Macmillan), Penguin Group, Inc. and e-book retailer Apple Inc. is set for early June 2013.