Ohio Attorney General Mike DeWine

NEWS RELEASES

Attorney General DeWine Joins in Securing $69 Million Agreement with Three Major U.S. Publishers over E-Book Price-Fixing Allegations

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(COLUMBUS, Ohio) -- Attorney General Mike DeWine along with 54 attorneys general in other states and U.S. territories announced on Aug. 29 that they have reached an antitrust settlement with three of the largest book publishers in the United States. Hachette Book Group (USA), 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). Approximately $2 million of the settlement will be allotted to Ohio consumers. The publishers have also agreed to change the way they price E-books going forward.

"Competitive prices are what we expect in a free market," said Attorney General DeWine. "This settlement is great news for consumers and a warning to companies that price fixing is unacceptable and illegal."

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. 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."

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. Consumers in Ohio are expected to receive approximately $2 million in total compensation.

The vast majority of consumers who purchased E-books from an E-book retailer will receive a credit in their account for purchases related to the settlement. The amount of the credit will vary by whether the E-book purchased was on the New York Times Bestseller list or whether it was a newer or older title. They may also request a check instead of a credit by following the directions set out in the email notice that will explain their options. Consumers who do not receive email notice of an automatic credit from their retailer will need to submit a claim via the settlement website.

The settling defendants will also pay approximately $7.5 million to the states for fees and costs.

The lawsuit and today's settlement stem from a two-year investigation that 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.

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 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, for five years, precludes these three publishers from further conspiring or sharing competitively sensitive information with their competitors. 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.

Another case against non-settling publishers-Penguin, Macmillan, and Apple remains pending in the Southern District of New York.

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