AG Jackley Announces Agreement with Three Major U.S. Publishers over E-Book Price-Fixing Allegations

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Attorney General Jackley Announces $69 Million Agreement with Three Major U.S. Publishers over E-Book Price-Fixing Allegations

PIERRE, S.D.- Attorney General Marty Jackley 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. 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 future pricing of E-books.

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 "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." As a result of this conduct, the States allege that consumers paid millions of dollars more for their e-books.

“South Dakota led as one of the 16 original states challenging the E-Book price fixing to protect legitimate businesses and our consumers,” said Jackley. “This settlement will help restore competition in the E-book market by promoting E-Book competition among all retailers and allow consumers to put their trust back in this market.”

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. South Dakota consumers purchasing E-Books are expected to receive part of this $69 million dollar settlement. 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.

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