Attorneys General Secure $69 Million Agreement with Three Major U.S. Publishers over E-Book Price-Fixing Allegations

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If you purchased E-Books over the past two years, you may soon be eligible for restitution as the result of a multistate agreement to resolve price-fixing allegations, Tennessee Attorney General Bob Cooper announced today. Tennessee is expected to receive approximately $1.2 million as part of the agreement.

The announcement comes after Attorney General Cooper and 54 attorneys general in other states, districts and U.S. territories 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 in the future.

The agreement occurs in conjunction with a civil antitrust lawsuit filed today in U.S. District Court in New York against Hachette, HarperCollins, and Simon & Schuster, which alleges that they and two non-settling publishers (Macmillan and Penguin) along with Apple conspired to fix prices for E-books. Specifically, the complaint states, the publishers agreed to increase retail E-book prices for all consumers and to eliminate E-book retail price competition between E-book outlets regardless of where the consumers bought their E-books.

The lawsuit and today's settlement stem from a two-year antitrust investigation conducted by the states and U.S. Department of Justice's Antitrust Division. That investigation developed evidence that the five largest American publishers 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. The States contend that the publishers prevented retail price competition resulting in consumers paying millions of dollars more for their e-books.

"This collective action should send a strong message that competitors cannot get away with price-fixing," Attorney General Cooper said. "We will do everything within our power to stop competitors from colluding to artificially raise the costs the prices by millions of dollars more for some of the most popular E-Book titles."

Today's settlement with three of those publishers paves the way for restitution for those consumers harmed by the scheme. The attorneys general will continue to litigate with the remaining non-settling companies to provide additional restitution.

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 between 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 will agree 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. Additionally, the three publishers will for five years 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 Group, Inc. and Holtzbrinck Publishers LLC dba...