

**From:** Lisa Baudoin [mailto:lisabaudo[REDACTED]]  
**Sent:** Sunday, June 24, 2012 12:42 PM  
**To:** Read, John [John.Read@ATR.USDO.gov]  
**Cc:** d[REDACTED] ; Sarah Bagby; diana cohen  
**Subject:** Agency Model Comments

John Read  
Chief, Litigation III Section  
Antitrust Division  
U.S. Department of Justice

Dear Mr. Read,

I have been an independent bookseller for 22 years and currently co-own a bookstore in Oconomowoc, Wisconsin. I am an avid reader, as are my parents and my own children.

My childhood was spent in Independent Bookstores and in public libraries. I am concerned the Department of Justice's decision to halt the Agency Model for e-books published by Hachette, Harper Collins, and Simon & Schuster will have devastating effects on the cultural and intellectual life that makes the United States a vibrant place in which stories, ideas, and intellectual pursuits are freely and openly explored, published, and sold. As a bookstore owner, I know this decision will drastically change the landscape for publishers, authors, bookstores, and readers/consumers.

I view the e-book as another format in which to deliver the text, no different than the mass market, trade paperback, hardcover, or audio formats that we have traditionally sold. It is crucial for my business that I be able to sell books in all formats. It is ludicrous to think that one company should control and dominate the marketplace for any one of these formats based on their ability to sell below cost. Yet, that was the situation we were facing prior to the introduction of the Agency Model for e-books. The Department of Justice has not found fault with the Agency Model. It has found fault with the suspected actions of the publishers in question. However, asking the publishers to cease the Agency Model pricing for a two-year period is not punishing the publishers. It is putting a strangle-hold on a distribution system that finally fosters a broad marketplace in which small independent businesses can exist next to large corporations. Eliminating the Agency Model for a two-year period will punish the Independent Bookstores. It will punish Barnes & Noble. It will punish any business that cannot afford

to sell an e-book below cost. The single decision to eliminate the Agency Model for two-years will have more negative economic effect on small businesses and on consumer choice than it will on those publishers. It is a decision that will certainly favor the monopolistic model advocated by Amazon.com.

Without the Agency Model, one company can price e-books below cost, thus forcing out any competition. Prior to the Agency Model, Amazon.com had 90% of the business. It was not because they offered a superior product or service. It was not because they had a superior business model. It was because they were selling below cost in hopes of dominating the market, while also selling an e-reader that requires the consumer to purchase all content from Amazon.com exclusively. Amazon.com's efforts to dictate the price for all e-books and efforts to dominate the marketplace was quickly leading to a monopoly. Their attempts to bully authors and publishers to abide by their terms made it impossible for other book retailers to compete in the e-book market. When they didn't like the push back from the publisher, they temporarily removed all buy buttons for books by that publisher from the Amazon.com website. I do not expect this one company to change its behavior once it has even more power in the marketplace. At this point, we should all be concerned about our written culture. How will it get distributed? Who will control that distribution? Who will dictate the terms of what gets published and what does not? Where will the average person go to participate in a book culture? The Department of Justice's decision plays a crucial role in how the answers to these questions are played out.

After the Agency Model was introduced, Barnes & Noble, Google, Apple, and Independent Bookstores were able to grow and compete in the e-book marketplace. My e-book business has grown since the introduction of the Agency Model. I have been able to retain customers by offering all formats of a book at competitive prices. I have increased payroll hours to have a bookseller manage our website and e-book promotions and sales. Customers want to support a local business that collects sales tax, employs their neighbors, donates to fundraisers, and provides cultural events in their communities and schools. When one company can price below cost, the consumer is lulled into a false sense that other retail establishments are over-charging for a product. Economic studies have shown that the low-cost pricing from on-line and discount stores is the largest factor that has led to the decline of main street businesses. Asking the publishers to cease behavior that has finally corrected a distortion in the marketplace will lead to further problems down the line. The e-book market has become more competitive with the introduction of Agency Pricing not less. The decision to end Agency Pricing for even a short period of time will have detrimental effects on my business and for my community.

Finally, as a reader, I am concerned about the affects this decision will have on our cultural and intellectual life. This decision affects the whole landscape of publishing and bookselling. I am confident that without the Agency Model, Amazon.com will develop a monopoly on e-book sales. The below cost pricing on e-books not only effects e-book sales, but the sales of all books in the brick & mortar stores. To have a monopoly over the distribution of books would be catastrophic to the free and open cultural and intellectual life that the United States prides itself on. To lose the bookstores that have become the community gathering places that nurture our cultural and intellectual life would be devastating. Our communities need local businesses to provide sales tax collection, jobs, and destinations for individuals to gather and participate in a healthy civil society. This is not breakfast cereal that we are advocating for. This is the cultural legacy we leave behind for future generations. This one decision will determine who gets to control the distribution of our published thoughts and stories. It will affect my ability as an Independent Bookstore to compete as a brick and mortar store. The community I live in values and depends on the services that I provide. They value the choices that are offered to them. Please, do not limit our choices as readers, as consumers, as individual who value the open and diverse exchange of published works.

With sincere concern,

Lisa Baudoin

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