Objection to the Settlement(s) in Texas et al. Hachette Book Group et al., Case No. 12-cv-6625.

In United States v. Microsoft was case about Microsoft using its market monopoly power to to stifle competition and harm its customers. In this case the government is taking the exact opposite position. It is de facto supporting the monopolist (Amazon) and is defending its e-Book Reader monopoly. This proposed settlement is not in the public interest.

I concur with Scott Turow assessment of situation. His open letter is attached.

More recently Wal-Mart has stop selling Amazon e-Books Reader. Another example of reaction of the monopolistic behavior of Amazon.

I recommend that the settlement not be approved. Further, I support Apple Computer and the other publishers who are defending the interests the consumers against the government acting in support of monopolistic behavior of Amazon.

Ted D. Tupper

Letter from Scott Turow: Grim News

Posted March 9, 2012

Dear member,

Yesterday's report that the Justice Department may be near filing an antitrust lawsuit against five large trade book publishers and Apple is grim news for everyone who cherishes a rich literary culture.

The Justice Department has been investigating whether those publishers colluded in adopting a new model, pioneered by Apple for its sale of iTunes and apps, for selling e-books. Under that model, Apple simply acts as the publisher's sales agent, with no authority to discount prices.

We have no way of knowing whether publishers colluded in adopting the agency model for e-book pricing. We do know that collusion wasn't necessary: given the chance, any rational publisher would have leapt at Apple's offer and clung to it like a life raft. Amazon was using e-book discounting to destroy bookselling, making it uneconomic for physical bookstores to keep their doors open.

Just before Amazon introduced the Kindle, it convinced major publishers to break old practices and release books in digital form at the same time they released them as hardcovers. Then Amazon dropped its bombshell: as it announced the launch of the Kindle, publishers learned that Amazon would be selling countless frontlist e-books at a loss. This was a game-changer, and not in a good way. Amazon's predatory pricing would shield it from e-book competitors that lacked Amazon's deep pockets.

Critically, it also undermined the hardcover market that brick-and-mortar stores depend on. It was as if Netflix announced that it would stream new movies the same weekend they opened in theaters. Publishers, though reportedly furious, largely acquiesced. Amazon, after all, already controlled some 75% of the online physical book market.

Amazon quickly captured the e-book market as well, bringing customers into its proprietary device-and-format walled garden (Sony, the prior e-book device leader, uses the open ePub format). Two years after it introduced the Kindle, Amazon continued to take losses on a deep list of e-book titles, undercutting hardcover sales of the most popular frontlist titles at its brick and mortar competitors. Those losses paid huge dividends. By the end of 2009, Amazon held an estimated 90% of the rapidly growing e-book market. Traditional bookstores were shutting down or scaling back. Borders was on its knees. Barnes & Noble had gamely just begun selling its Nook, but it lacked the capital to absorb e-book losses for long.

Enter Steve Jobs. Two years ago January, one month after B&N shipped its first Nook, Jobs introduced Apple's iPad, with its proven iTunes-and-apps agency model for digital content. Five of the largest publishers jumped on with Apple's model, even though it meant those publishers would make less money on every e-book they sold.

Publishers had no real choice (except the largest, Random House, which could bide its time – it took the leap with the launch of the iPad 2): it was seize the agency model or watch Amazon's discounting destroy their physical distribution chain. Bookstores were well along the path to becoming as rare as record stores. That's why we publicly backed Macmillan when Amazon tried to use its online print book dominance to enforce its preferred e-book sales terms, even though Apple's agency model also meant lower royalties for authors.

Our concern about bookstores isn't rooted in sentiment: bookstores are critical to modern bookselling. Marketing studies consistently show that readers are far more adventurous in their choice of books when in a bookstore than when shopping online. In bookstores, readers are open to trying new genres and new authors: it's by far the best way for new works to be discovered. Publishing shouldn't have to choose between bricks and clicks. A robust book marketplace demands both bookstore showrooms to properly display new titles and online distribution for the convenience of customers. Apple thrives on this very model: a strong retail presence to display its high-touch products coupled with vigorous online distribution. While bookstores close, Apple has been busy opening more than 300 stores.

For those of us who have been fortunate enough to become familiar to large numbers of readers, the disappearance of bookstores is deeply troubling, but it will have little effect on our sales or incomes. Like rock bands from the pre-Napster era, established authors can still draw a crowd, if not to a stadium, at least to a virtual shopping cart. For new authors, however, a difficult profession is poised to become much more difficult. The high royalties of direct publishing, for most, are more than offset by drastically smaller markets. And publishers won't risk capital where there's no reasonable prospect for reward. They will necessarily focus their capital on what works in an online environment: familiar works by familiar authors.

Two years after the agency model came to bookselling, Amazon is losing its chokehold on the e-book market: its share has fallen from about 90% to roughly 60%. Customers are benefiting from the surprisingly innovative e-readers Barnes & Noble's investments have delivered, including a tablet device that beat Amazon to the market by fully twelve months. Brick-and-mortar bookstores are starting to compete through their partnership with Google, so loyal customers can buy e-books from them at the same price as they would from Amazon. Direct-selling authors have also benefited, as Amazon more than doubled its royalty rates in the face of competition.

Let's hope the reports are wrong, or that the Justice Department reconsiders. The irony bites hard: our government may be on the verge of killing real competition in order to save the appearance of competition.

This would be tragic for all of us who value books, and the culture they support.

Sincerely,

Scott Turow
President

Joan Cartwright

This explains why Border's closed down, shortly after they purchased my books and CDs.