

Publishing CEO highlights Apple role in ebook case (Update)

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Carolyn Reidy, chief executive of Simon & Schuster, admitted her company's involvement in a series of meetings, phone conversations and email exchanges ahead of the introduction of the iPad and a new price scheme for ebooks.

Reidy only grudgingly acknowledged these events in a tense series of exchanges with US Justice Department lawyer Lawrence Buterman in a New York federal court on the third day of the antitrust trial against Apple.

She testified that she met with Apple executive Eddy Cue and that was aware that other big publishers were in talks with the California tech giant to end the pricing model imposed by Amazon, which was the leading ebook retailer.

"You left the meeting understanding Apple didn't want (Amazon's price of \$9.99) to continue?" Buterman asked.

"Clearly," Reidy responded.

Reidy—who had submitted written testimony in Apple's defense—was called by the government to corroborate facts in the alleged conspiracy.

The government queried Reidy on a series of dinners with publishing CEOs held in private dining rooms of fancy New York restaurants, but Reidy said Apple did not participate in them.

The Justice Department also presented evidence of Reidy's telephone contacts with other publishing CEOs during the Apple negotiations.

Reidy denied discussing the Apple talks with them, but the government introduced an email from Reidy to Cue, in which she said she "looked forward" to his progress in "herding us cats."

Reidy appeared reluctant to offer details on the alleged conspiracy, but her testimony could allow the government to build a case in the three-week trial that would deal a blow to the reputation of one of America's leading companies.

Simon & Schuster was among five publishers named in an indictment last year, but they all settled the charges, leaving Apple alone in the price-fixing conspiracy trial.

The case centers on an intense month and a half of negotiations between Apple and the six largest US publishers ahead of Apple's January 2010 launch of its iPad and the announcement of its e-bookstore.

Prior to then, the publishers sold books to Amazon and other online booksellers through a "wholesale" model in which the retailer set the price.

After Apple's entry, the industry shifted to an "agency" model, where the publisher sets the price and the online bookseller receives a 30 percent commission.

The government contends that this shift, orchestrated by Apple and imposed on Amazon and other booksellers, ended the days of Amazon's \$9.99 online bestsellers and cost consumers hundreds of millions of dollars.

Apple has argued that its interests were in conflict with those of the publishers and that the negotiations were contentious.

During Wednesday's testimony, the government presented an initial Apple proposal that ordered Simon & Schuster to shift to the agency model with other book retailers.

Reidy also confirmed that Cue in a December 2009 phone conversation said Apple wanted publishers to shift to agency.

However, Reidy said the provision was dropped in subsequent drafts and not adopted as part of its contract with Apple.

"We wouldn't have signed a contract that would let Apple tell us what to do with other retailers," Reidy said.

Simon & Schuster subsequently renegotiated to an agency model with Amazon.

Reidy acknowledged that the economics of keeping Amazon on the wholesale model while having Apple on the agency model were poor for the publisher.

But she rejected the argument that Apple's move "forced" Simon & Schuster to change with Amazon.

"We embraced the Apple way of selling because it enabled us to change the way we sold to other retailers," Reidy said.

Amazon's Russell Grandinetti, who signed a declaration on behalf of the government, was also questioned by Apple on Amazon's negotiations with publishers to shift to the agency model after the industry tide shifted.

Grandinetti confirmed that Amazon insisted on the same key conditions with the publishers, including price and book selection.

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