

Court monitor: Apple antitrust cooperation has 'declined'

April 17 2015, by Larry Neumeister

Apple Inc.'s cooperation with efforts to improve its compliance with antitrust laws after a federal judge concluded it colluded with electronic book publishers to raise prices five years ago took on an "adversarial tone" recently, a court-appointed monitor says.

The monitor, Michael Bromwich, said in a report made public Thursday that the technology giant's cooperation with the monitoring team "sharply declined" this year.

Bromwich was appointed to review the Cupertino, California company's antitrust compliance policies and training after the judge concluded in a case in New York that Apple violated [antitrust laws](#) when it entered the e-book market in 2010.

Bromwich said Apple was making progress before significant setbacks arose since October. Since then, he said, "Apple's communications with us reverted to the more adversarial tone taken in the first few months of the monitorship, including attempts to prescribe and limit how the monitor should conduct his reviews and write his reports."

He said Apple's cooperation with his team deteriorated as the company rejected requests to interview business personnel, refused to turn over certain documents and information and only let Bromwich's team look at a small sample of training sessions. Apple's program still lacked an independent antitrust compliance officer and adequate board oversight, he said.

A lawyer for Apple did not immediately return a message seeking comment Thursday.

Bromwich also had good things to say about Apple. The company has made strides to develop a program that is comprehensive and effective, including creating a set of procedures to detect, investigate and report potential and actual antitrust violations, he said.

He said Apple has conducted interviews and distributed a survey to employees to collect feedback to improve its antitrust compliance program.

"Apple is to be commended for the progress it has made over the past 18 months," Bromwich said. "Nevertheless, significant gaps remain in Apple's program, which it will have to work hard to complete."

In December, Apple got some sympathy from judges with the Manhattan-based 2nd U.S. Circuit Court of Appeals who must decide whether to reverse Judge Denise Cote's antitrust finding after a 2013 civil trial that Apple colluded with e-[book publishers](#) to raise prices and bust Amazon.com's control of the market.

Theodore J. Boutrous Jr., an Apple attorney, told appeals judges in December that Seattle-based Amazon was the monopoly in the e-book market before Apple arrived on the scene. Boutrous said Amazon set e-book prices at \$9.99, cheaper than cost, as it controlled over 90 percent of the market.

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Citation: Court monitor: Apple antitrust cooperation has 'declined' (2015, April 17) retrieved 2 May 2024 from <https://phys.org/news/2015-04-court-apple-antitrust-cooperation-declined.html>

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