

# US defends suit on Apple, e-books amid criticism

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Apple's new iPad is on display at Apple's flagship store in New York on March 16. US antitrust authorities Monday defended their lawsuit accusing Apple and major publishers of a price-fixing conspiracy on e-books, saying the action is "in the public interest."

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The Justice Department filed its response in US District Court in New York in the case, which alleges a collusion to boost the prices of electronic books.

Because three of the [publishers](#) agreed to halt the scheme, the settlement was opened to public comment and prompted 868 responses both for and

against the deal, which must be approved by the court.

The Justice Department filing said many critics of the settlement "misunderstand" the case or are acting in "their own self-interests, and they prefer that unfettered competition be replaced by industry collusion that places the welfare of certain firms over that of the public."

The filing said authorities acted after e-book prices jumped 30 to 50 percent "virtually overnight" and after an investigation showed the increase "was not the result of market forces, but rather came about through the collusive efforts of [Apple](#) and five of the six largest publishers in the country."

"That conduct... is per se illegal under the [federal antitrust laws](#)," it said.

It added that a proposal by Apple to modify the settlement "would serve only to undermine the proposed (settlement's) effectiveness, reducing the value of the settlement to consumers."

The tech giant's proposal "is a naked attempt by Apple to have its competitors' ability to compete on price constrained -- to take away the 'nearly unfettered ability to discount'" prices, the Justice Department said.

The lawsuit said the publishers conspired with Apple to end the longstanding "wholesale model" in which e-books were sold to retailers, which had the power to establish their own prices.

They replaced this with a so-called "agency model" where publishers would have the power to set the prices retailers charge for the e-books. Under this arrangement, Apple was guaranteed a 30 percent commission on each e-book sold.

The lawsuit said Apple's self-described "aikido move" worked, and that the publishers entered into contracts with the California tech giant under those terms.

Prior to the introduction of Apple's iPad in April 2010, online retail giant Amazon, maker of the Kindle e-book reader, sold electronic versions of many new best sellers for \$9.99.

After the agency model was adopted, the prices rose to between \$12.99 and \$16.99, the suit said, and price competition among retailers was "unlawfully eliminated." Retailers including Amazon were forced to accept the new model in order to sell the e-books.

Three publishers -- Hachette Book Group, HarperCollins and Simon & Schuster -- reached a settlement but the case will proceed against Apple and the other two, Macmillan and Penguin Group.

Last week, US Senator Charles Schumer criticized the Justice Department action, saying it would "restore Amazon to the dominant position atop the e-books market it occupied for years before competition arrived in the form of Apple."

"If that happens, [consumers](#) will be forced to accept whatever prices Amazon sets," he said in a Wall Street Journal commentary.

But the Consumer Federation of America backed the [Justice Department](#), saying it would end a "cartel" and restore competition to the market for e-books.

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