

US judge OKs partial settlement in e-book case

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A US judge approved a partial settlement Thursday in a lawsuit over e-book price-fixing, allowing three publishers to end a deal with Apple that became the target of a government probe.

Judge Denise Cote signed an order approving the settlement between the Justice Department and the publishers, Hachette Book Group, HarperCollins and Simon & Schuster.

Those three firms reached a settlement in April when the US government launched its case against Apple and other publishing houses "for conspiring to end e-book retailers' freedom to compete on price."

The ruling came as a surprise because Apple and others had been pressing for hearings on the impact of the deal, but the judge said this was not needed.

Cote said in a 45-page opinion that the settlement was "appropriate" and "secures a remedy that is closely related to the violations alleged in the complaint."

She added that she agreed with the government argument that finalizing the settlement "would more quickly restore retail price competition to consumers than a trial."

The ruling came after a flurry of public comments, including many suggesting the settlement could hurt some rivals in the sector.

But she said "this is not the type of harm that the Sherman (antitrust) Act is designed to prevent. The purpose of the Sherman Act is not to protect businesses from the working of the market; it is to protect the public from the failure of the market."

The lawsuit will proceed against Apple along with publishers Macmillan and Penguin Group for what US authorities called a conspiracy to raise prices and limit competition for e-books.

US officials said the scheme was aimed at ending a discounting effort by Amazon, which sold most e-books at \$9.99 until the new pricing plan was forced on the retail giant.

The move almost instantly raised the prices consumers paid for e-books, authorities said.

The lawsuit was filed amid probes on both sides of the Atlantic over the efforts to limit discounting on electronic books, which had been dominated by Amazon until Apple launched its iPad in 2010.

The suit filed in US District Court in New York said the conspiracy dating back to 2009 involved schemes to limit Amazon's control of the market.

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.

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.

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