



Justice Department to Sue Apple, Publishers for eBook Price Collusion

WRITTEN BY BOB ADELMANN

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When the Justice Department [announced](#) in March that it intended to sue Apple and five book publishers for collusion over the pricing of eBooks, David Boaz of the Cato Institute could be heard to say “Here we go again.” Boaz wrote about Washington regulators and busybodies [two years ago](#), calling them “parasites” and expressing the hope that Apple would avoid the absorption into the Washington “Borg” suffered first by Microsoft and then Google.

Boaz then noted:

For more than a decade, Microsoft went about its business, developing software, selling it to customers, and – happily, legally – making money. Then in 1995, after repeated assaults by the Justice Department's antitrust division, Microsoft broke down and started playing the Beltway game...

A decade later, it was Google. After a humble start in a Stanford dorm room, Google delivered a cheap and indispensable product and became the biggest success story of the early 21st century.

But in our modern politicized economy – which author Jonathan Rauch called the “parasite economy” – no good deed goes unpunished for long. Some policymakers threatened to create a federal Office of Search Engines to regulate Google. The George W. Bush administration wanted Google to turn over a million random Web addresses and records of all searches from a one-week period. Congress investigated how the company deals with the Chinese government's demands for censorship.

So, like Microsoft and other companies before it, Google opened a Washington office and hired well-connected lobbyists.

Now it's Apple's turn. The irony is that Apple's success has been built by providing products that their customers didn't know they wanted - until they existed. Here's the insanity: the company creates whole new products and industries and jobs, and the federal government is now upset that somehow Apple is going to “limit” competition in the industry it created.

At issue is Apple's move into eBook publishing. Hard cover books used to be marketed using the "traditional model" where the publisher determines the retail price and then sells distributors the books at wholesale, usually about half the list price on the cover. Retailers, like Barnes and Noble, are then free to charge whatever they like, even below their cost if they want to.

Along came Apple with its "agency" model whereby the publisher would set the price of the book and Apple would take 30% on each book sold. The "agency" model took over the industry and the feds have concluded that there had to have been some collusion involved, so they're threatening to sue.

The impact of the suit, if successful, or any "negotiated settlement" beforehand, is likely to have a large impact on the eBook industry, with higher prices and fewer books likely to be available to the reading public. As *The Reporter* [editorialized](#), "This shows how little the federal government knows about what's going on out there in innovative companies. The iPad, the platform most of these books appear on, is only two years old. It already has competitors, most based on Google's Android system. And the five biggest U.S. publishers themselves face competition from dozens of smaller companies."

What is likely to happen is that innovation will be dampened, resources diverted, and customers unknowingly doing without products that might otherwise come to market. Ryan Radia of the Competitive Enterprise Institute said: "The antitrust lawsuit will only discourage Apple from competing in eBooks. We want the competition. But the lawsuit limits the ability of publishers creatively to set pricing for books."

Apple [recently released a study](#) showing just how many jobs it has created as it has grown. The numbers are impressive: Apple currently employs, either directly or indirectly, 514,000 people. This includes 47,000 employed directly by Apple itself in the United States and a total of 70,000 worldwide. In addition Apple is responsible for another 257,000 jobs at other companies that support Apple's products. Apple's retail stores employ 27,350 people in 246 locations, along with another 20,000 construction jobs building new stores. Apple has 7,000 employees working at 21 customer service call centers in addition to 2,000 home-based AppleCare Advisors and another 600 working for Apple while earning their college degrees. And this doesn't include employees at UPS and FedEx involved in shipping Apple products across the country and around the world.

As Mike Brownfield noted at the [Heritage blog](#):

It didn't take the mighty hand of the federal government to do it. Apple created demand for its products by inventing things that people would want, then selling the heck out of them. That's capitalism, the free market, and entrepreneurship at work.

Unfortunately Apple has grown so large, so quickly, by providing its customers with products so needed and useful that the government simply cannot keep its hands off. As Ronald Reagan famously noted:

If it moves, tax it. If it keeps moving, regulate it. And if it stops moving, subsidize it.

