

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,
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Plaintiff,
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-v-
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APPLE, INC., et al.,
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Defendants.
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12 Civ. 2826 (DLC)
ORDER

DENISE COTE, District Judge:

On April 11, 2012, plaintiff the United States of America (the "Government") filed a civil antitrust complaint alleging that Apple, Inc. ("Apple") and five of the six largest publishers in the United States ("Publisher Defendants") conspired to raise prices of electronic books, or e-books, in the United States in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. On September 5, 2012, the Court granted entry of final judgment as to three of the Publisher Defendants -- Hachette, HarperCollins, and Simon & Schuster ("September 5 Opinion" and "Original Final Judgment," respectively). On May 17, 2013, the Court granted entry of final judgment as to a fourth Publisher Defendant, Penguin ("May 17 Order" and "Penguin Final Judgment," respectively). The Government now moves for entry of final judgment as to Holtzbrinck Publishers LLC d/b/a Macmillan ("Macmillan").

On February 8, 2013 the Government submitted a proposed final judgment as to Macmillan ("Macmillan Final Judgment") as well as a Competitive Impact Statement pursuant to Section 2(b) of the Tunney Act, 15 U.S.C. §§ 16(b)-(h), which invited public comment on the Macmillan Final Judgment. The 60-day public comment period ended on April 28, 2013. One comment from the public was timely submitted.

The Government filed its response to the public comments on May 24 ("RPC"), and moved for entry of the proposed Macmillan Final Judgment on June 12. By Order dated February 19, the motion was to be fully submitted on July 8. No submissions have been filed in response to the RPC. A bench trial was held from June 3 to 20, 2013 to litigate the issue of Apple's liability and the scope of any injunctive relief as to Apple. By Opinion of July 10, the Court found that Apple had conspired to eliminate retail price competition and raise the retail price of e-books.

The language and relief contained in the proposed Macmillan Final Judgment is largely identical to the terms included in the Original Final Judgment and Penguin Final Judgment. As previously described, no opposition to the Macmillan Final Judgment was filed by any party to this action. While 868 public comments were submitted with respect to the Original Final Judgment, most of which opposed entry thereof, and three

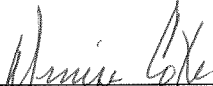
comments were submitted by third parties objecting to aspects of the proposed Penguin Final Judgment, only one comment has been offered by a third party objecting to aspects of the proposed Macmillan Final Judgment ("Macmillan Comment"). The Macmillan Comment was submitted by Bob Kohn, who provided similar comments with respect to the Original Final Judgment and Penguin Final Judgment.

The Government has complied with its Tunney Act requirements; there is no need for the Government to disclose any additional materials related to non-party Amazon. The September 5 Opinion and May 17 Order comprehensively address the arguments raised by the Macmillan Comment in opposition to the Macmillan Final Judgment. The Court thus adopts by reference the reasoning of the September 5 Opinion and May 17 Order and their relevant holdings, and finds that entry of final judgment as to Macmillan is in the public interest. Accordingly, it is hereby

ORDERED that the Government's June 12, 2013 motion for entry of the proposed Macmillan Final Judgment is granted.

SO ORDERED:

Dated: New York, New York
August 12, 2013



DENISE COTE
United States District Judge