

June 21, 2012

John Read  
Chief, Litigation III Section  
Antitrust Division  
U.S. Department of Justice  
450 5th Street, NW, Suite 4000  
Washington, DC 20530

**Re: Comments on the Proposed Consent Decree in *United States v. Apple, Inc., et al.*, 77 Fed. Reg. 24518 (April 24, 2012)**

Dear Mr. Read:

The American Specialty Toy Retailing Association (ASTRA) is a membership organization that represents brick and mortar independent neighborhood toy retailers and small to mid-sized independent toy manufacturers of high quality unique toys and games for children.

We write to you today to express our opposition to the consent decree with Hachette, HarperCollins and Simon & Schuster primarily because it requires that the Agency Model for the sale of e-books be eliminated by these three publishers for two years.

Our members are similar in many ways to independent booksellers. Like them the concentration of online retailing is undermining competition in the toy sector and free-riding is becoming a major problem for both brick-and-mortar toy stores and specialty toy manufacturers, which depend on physical stores to introduce and showroom their products for consumers.

For some small toy makers, MAP policies, which are similar to agency pricing in that producers set a minimum advertised retail price, are a pro-competitive tool to ensure that their products get the sales support necessary to succeed.

We believe the proposed settlement is not in the public interest, because, rather than focus on punishing the alleged conspirators, it would disable agency pricing. This could have a chilling effect in other industries, including the toy sector, where it could create an environment in which manufacturers are uncertain about the legality of an important pro-competitive pricing policy.

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We ask that the final consent decree not require publishers to drop the agency plan, which is a lawful pricing tool that is increasingly critical to ensuring a competitive market place, as a requirement of settlement.

Respectfully submitted,

Kathleen McHugh  
President