When a group of 26 independent booksellers accepted a cash settlement of its anti-trust suit against the Borders and Barnes & Noble Corporations in April 2001, it was an ambiguous ending that both sides tried to spin to their favor.

Barnes and Noble Inc. (B&N) chair Leonard Riggio declared "total vindication" for his corporation against the charges of muscling illegal discounts from book wholesalers, in defiance of anti-trust law—a statement made less convincing by his corporation's $2.35 million settlement payment to the plaintiffs. Borders will pay an equal amount to the independents.

But the independent stores and their trade group, the American Booksellers Association, hardly could claim victory either. Weeks earlier, Judge William Orrick ruled that regardless of the verdict, the two chains would not be forced to pay damages because of the impossibility of precisely defining the independents' losses resulting from illegal discounts the chains allegedly strong-armed from publishers.

The crimes in question were violations of the Robinson-Patman Act, enacted to prevent the use of market power to eliminate competition. Among other provisions, Robinson forbids retailers to "request" and receive terms of sale that they know to be illegal (i.e., discounts not justified by economies of scale). The chains were accused of using their dominance to wrest secret deals with publishers for cheaper books, full refunds on unsold books and other perks unavailable to the independents.

Americans have paid little attention to lax enforcement of anti-trust law, but the concentration of power in publishing is especially concerning. It threatens the existence of independent bookstores that play a crucial role in maintaining freedom of speech and the diversity of published thought. The dominance of a few giants in the book trade not only influences where we buy books, but what books we are able to buy.

The two retailing giants each control over 1000 stores. B&N Inc.'s empire encompasses B. Dalton and other subsidiaries while Borders owns Walden Books and other smaller companies. Any given store in these giants' domain often may stock more titles than a single competing independent, seemingly increasing our choices in individual locations. However, a wealth of independent bookstores, each serving their respective owners' and communities' tastes, create greater overall choices and provide access to more diverse ideas and opinions.

Independent booksellers often personally promote little-known books, creating opportunities for new authors and ideas that the chains carry only after success in independent stores.

In a world of chain stores and internet sales where books are a mere commodity, an important source of opportunity for unknown writers would suffer. As the now best-selling author Barbara Kingsolver said, "Authors like me would not have a career if it were not for independent booksellers."

The growing concentration in publishing, like B&N's merger of its online division with global media giant Bertelsmann A.G., the world's largest wholesaler, seriously threatens the diversity created by a variety of independents. B&N's attempted merger with Ingram Book Group, the largest book wholesaler, was thwarted by conscious opposition, but the concentration of power continues with the recent partnering between Borders and the dominant online book vendor Amazon.com.

Competition is fading quickly; independent bookstores sold just 15% of our books last year, an all-time low. Less obvious than vanishing stores, the number of publishers and
dependent on sales tax revenue are also often the victims of this grossly anti-free market law.

* B&N Inc. and Borders Inc. have received direct subsidies as great as $4 million from individual municipalities. Though your community may not grant such a subsidy, those collected by these corporations elsewhere pervert the market and place community-based businesses in a grossly unfair situation. Further, traded corporations are able to operate at a loss to eliminate competition so long as public money and stock speculation funds their expansion. For example, Amazon.com always has lost money ($2 billion total), yet has made a billionaire out of its founder.

Independent booksellers are not the final victims. If the book chains continue displacing community-based booksellers, we all will lose out as prices climb higher (B&N and Amazon already have eliminated the heavy discounting on which they built market share). More importantly, the diversity of published thought will erode in a market dominated by a few centralized powers.

Book buyers should weigh carefully the words of a Borders Inc. executive which came to light in recent trial. A recovered memo recorded his prediction that "in a couple of years there may only be a couple of players left who will dictate the game on their own terms."

Of course we should keep all this in mind when choosing where to purchase books, but we should also speak up for meaningful enforcement of laws designed to protect us from the harms of monopolies—harms that become more critical when we're dealing with a vital source of ideas and information. This is not just for the sake of independent bookstores, but for the freedom of expression we all cherish and must never take for granted.

By Jeff Milchen, Director

"Authors like me would not have a career if it were not for independent booksellers."

--Barbara Kingsolver

More Resources

The New Rules Project
Publishes a quarterly newsletter, e-mail news and website full of useful information on the role of locally owned businesses and actions employed to sustain them.

We highly recommend (and distribute--$14) their book: The Home Town Advantage by Stacy Mitchell.

1313 5th St. SE
Minneapolis, MN 55414
612-379-3815
www.NewRules.org

ReclaimDemocracy.org is a tax-exempt non-profit (501c3) organization working to revoke illegitimate corporate power and revive grassroots democracy.

A sample copy of our acclaimed newsletter, The Insurgent, is available on request.

© 2001 ReclaimDemocracy.org