



This submission only addresses the pricing of e-books.

(a) Whether a difference in prices exists between IT hardware and software products, including computer games and consoles, e-books and music and videos sold in Australia over the internet or in retail outlets as compared to markets in the US, UK and economies in the Asia-Pacific

A difference in prices certainly exists between e-books sold in Australia over the internet as compared to markets in the US, UK and economies in the Asia-Pacific. This price difference obviously does not apply to every e-book, but there is good evidence of a pattern of price discrimination against e-book buyers in Australia.

(b) Establish what those differences are

An objective example of a pattern of price discrimination against e-book buyers in Australia can be seen in the e-book pricing of fiction books listed on the New York Times Bestseller lists.

The New York Times Bestseller lists of 25/6/2012 comprised the following titles –

Combined Print & E-Book Fiction
FIFTY SHADES OF GREY , by E. L. James.
FIFTY SHADES DARKER , by E. L. James.
FIFTY SHADES FREED , by E. L. James.
GONE GIRL , by Gillian Flynn.
BARED TO YOU , by Sylvia Day.
FIFTY SHADES TRILOGY , by E. L. James.
THE THIRD GATE , by Lincoln Child.
ABRAHAM LINCOLN - VAMPIRE HUNTER , by Seth Grahame-Smith.
THE MISSION TO PARIS , by Alan Furst.
A GAME OF THRONES , by George R. R. Martin.
CALICO JOE , by John Grisham.
11TH HOUR , by James Patterson and Maxine Paetro.
PORCH LIGHTS , by Dorothea Benton Frank.
THE MARRIAGE BARGAIN , by Jennifer Probst.
A DISCOVERY OF WITCHES , by Deborah Harkness.
THE INNOCENT , by David Baldacci
AFRAID TO DIE , by Lisa Jackson
STOLEN PREY , by John Sandford
THE STORM , by Clive Cussler and Graham Brown
BEAUTIFUL DISASTER , by Jamie McGuire
ODD INTERLUDE #1 , by Dean Koontz
THE LAST BOYFRIEND , by Nora Roberts
XO , by Jeffery Deaver
THE LUCKY ONE , by Nicholas Sparks
SNATCHED , by Karin Slaughter
A DANCE WITH DRAGONS , by George R. R. Martin
CANADA , by Richard Ford
A STORM OF SWORDS , by George R. R. Martin
EASY , by Tammara Webber
A CLASH OF KINGS , by George R. R. Martin
DEADLOCKED , by Charlaine Harris
THE WITNESS , by Nora Roberts
KISS THE DEAD , by Laurell K. Hamilton
THE COLD DISH , by Craig Johnson
BIG SKY COUNTRY , by Linda Lael Miller

The table below lists the e-book prices (in \$US) of those New York Times best-sellers. Whereas the Amazon book store price of a physical book is the same regardless of the country or region of the buyer, the Amazon book store price of the corresponding e-book varies according to the country or region of the buyer. (Some books are

marked "na" indicating that they are not available in e-book format for buyers in that country/region). The highest price of any given e-book is highlighted in **bold**.

	Combined Print & E-Book Fiction	US	UK	AUS	ASIA	INDIA
1	FIFTY SHADES OF GREY , by E. L. James.	\$9.99	\$4.19	\$9.09	\$9.09	\$9.09
2	FIFTY SHADES DARKER , by E. L. James.	\$9.99	\$4.89	\$9.09	\$9.09	\$9.09
3	FIFTY SHADES FREED , by E. L. James.	\$9.99	\$4.89	\$9.09	\$9.09	\$9.09
4	GONE GIRL , by Gillian Flynn.	\$12.99	\$11.12	\$17.05	\$12.99	\$9.99
5	BARED TO YOU , by Sylvia Day.	\$7.99	na	\$8.30	\$7.99	\$8.38
6	FIFTY SHADES TRILOGY , by E. L. James.	\$29.99	\$14.01	\$27.27	\$27.27	\$27.27
7	THE THIRD GATE , by Lincoln Child.	\$12.99	\$18.50	\$12.99	\$12.99	\$12.99
8	ABRAHAM LINCOLN - VAMPIRE HUNTER , by St	\$7.99	na	\$8.30	\$7.99	\$8.38
9	THE MISSION TO PARIS , by Alan Furst.	\$12.99	\$16.01	\$19.90	\$12.99	\$14.21
10	A GAME OF THRONES , by George R. R. Martin.	\$8.99	\$6.34	\$9.95	\$8.54	\$8.54
11	CALICO JOE , by John Grisham.	\$12.99	\$12.81	\$17.05	\$12.99	\$9.99
12	11TH HOUR , by James Patterson and Maxine Pa	\$12.99	\$13.31	\$9.91	\$9.99	\$9.99
13	PORCH LIGHTS , by Dorothea Benton Frank.	\$12.99	\$13.49	\$18.20	\$12.99	\$12.99
14	THE MARRIAGE BARGAIN , by Jennifer Probst.	\$2.99	\$2.92	\$2.99	\$2.99	\$2.99
15	A DISCOVERY OF WITCHES , by Deborah Harkn	\$9.99	\$7.94	\$12.04	\$9.99	\$9.99
16	THE INNOCENT , by David Baldacci	\$12.99	\$6.22	\$17.05	\$9.36	\$9.36
17	AFRAID TO DIE , by Lisa Jackson	\$9.99	\$7.94	\$11.27	\$9.99	\$9.99
18	STOLEN PREY , by John Sandford	\$12.99	\$15.88	\$17.90	\$12.99	\$17.04
19	THE STORM , by Clive Cussler and Graham Brow	\$12.99	\$14.92	\$12.99	\$12.99	\$12.99
20	BEAUTIFUL DISASTER , by Jamie McGuire	\$2.99	\$3.91	\$2.99	\$2.99	\$2.99
21	ODD INTERLUDE #1 , by Dean Koontz	\$1.99	\$1.57	\$1.02	\$1.99	\$3.78
22	THE LAST BOYFRIEND , by Nora Roberts	\$9.99	\$11.21	\$16.91	\$9.99	\$9.99
23	XO , by Jeffery Deaver	\$12.99	\$15.88	\$19.90	\$12.99	\$14.21
24	THE LUCKY ONE , by Nicholas Sparks	\$7.99	\$8.00	\$11.93	na	\$7.59
25	SNATCHED , by Karin Slaughter	\$1.99	\$2.00	\$2.28	\$1.99	\$2.28
26	A DANCE WITH DRAGONS , by George R. R. Ma	\$14.99	\$9.53	\$9.95	\$14.99	\$9.09
27	CANADA , by Richard Ford	\$12.99	\$7.78	na	\$12.99	\$12.99
28	A STORM OF SWORDS , by George R. R. Martin	\$8.99	\$15.88	\$13.92	\$8.54	\$8.54
29	EASY , by Tammara Webber	\$3.99	\$3.10	\$3.99	\$3.99	\$3.99
30	A CLASH OF KINGS , by George R. R. Martin	\$8.99	\$7.94	\$9.95	\$8.54	\$8.54
31	DEADLOCKED , by Charlaine Harris	\$14.99	\$15.88	\$16.91	\$14.99	\$14.21
32	THE WITNESS , by Nora Roberts	\$14.99	\$15.09	\$20.07	\$14.99	\$14.99
33	KISS THE DEAD , by Laurell K. Hamilton	\$12.99	\$14.29	\$17.05	\$12.99	\$9.99
34	THE COLD DISH , by Craig Johnson	\$12.99	na	na	\$9.69	\$9.69
35	BIG SKY COUNTRY , by Linda Lael Miller	\$5.99	na	\$7.59	\$5.99	\$5.99

(The above data comes from the New York Times website at <http://www.nytimes.com/pages/books/index.html> and the Amazon book store Kindle (e-book) website at http://www.amazon.com/Kindle-eBooks/b/ref=sa_menu_kbo7?ie=UTF8&node=1286228011 and was retrieved in the period 25/6/12 to 1/7/12).

Clearly, Australian buyers are paying higher e-book prices than buyers on other countries/regions. For 20 out of the top 35 books, Australians are paying the highest prices of all countries/regions.

And it is apparent that where the Australian price is the highest, it is highest by a substantial amount, not just a few cents, as for example with these books, which show a range of a 24% to 50% increase in price for Australian buyers when compared to the next cheapest country -

THE MISSION TO PARIS , by Alan Furst.	\$12.99	\$16.01	\$19.90	\$12.99	\$14.21
CALICO JOE , by John Grisham.	\$12.99	\$12.81	\$17.05	\$12.99	\$9.99
PORCH LIGHTS , by Dorothea Benton Frank.	\$12.99	\$13.49	\$18.20	\$12.99	\$12.99
THE INNOCENT , by David Baldacci	\$12.99	\$6.22	\$17.05	\$9.36	\$9.36
THE LAST BOYFRIEND , by Nora Roberts	\$9.99	\$11.21	\$16.91	\$9.99	\$9.99

It is not just Amazon that sells at such inflated prices to Australian buyers. These Amazon Australian prices are substantially the same as prices for the same e-books in other e-book stores accessible from Australia. For example, some e-book prices at alternative Australia-accessible e-stores are –

	Amazon	Borders	eBooks	Apple
GONE GIRL	\$17.05	\$16.99	na	\$16.99
THE MISSION TO PARIS	\$19.90	\$19.99	\$19.99	\$19.99
CALICO JOE	\$17.05	\$16.99	\$16.99	\$16.99
THE INNOCENT	\$17.05	\$16.99	\$17.00	\$16.99

(c) Determine why those differences exist

No technical reason

As can be seen in the above price lists, many of the Australian e-book prices are substantially higher than the e-book price in other countries/regions.

This is despite the fact that the e-book is listed, sold on, and downloaded from the same USA-based website and servers for every country/region. There is no such thing as “an Australian Amazon website”. Buyers from every country, including Australia, all buy and download e-books from the same USA-based Amazon internet book store at www.amazon.com.

There is therefore no technical reason for higher pricing of e-books for Australians. (In fact, for UK e-book buyers, the above price lists include VAT, which means that even with VAT added, e-book prices for UK buyers are generally still substantially lower than e-book prices for Australian buyers).

Unknown which of publishers or sellers are responsible for pricing decisions

A justification for higher pricing of e-books for Australian buyers is given on the Amazon website for those e-books which are priced substantially higher for Australian buyers. The Amazon website pages for those books contain the following statement

Sold by: (name)
This price was set by the publisher

This note can be seen, for example, on the Amazon page for the e-book “Mission to Paris” at http://www.amazon.com/Mission-to-Paris-ebook/dp/B0087JUOY/ref=sr_1_1?s=digital-text&ie=UTF8&qid=1341229436&sr=1-1&keywords=mission+to+paris

The e-book versions of books listed on the New York Times Bestseller lists come from a diverse set of publishers, some of whom are also the sellers of the books, and Hachette Book Group is the most common seller of these e-books. The table below list the publisher and seller of those e-books which are priced substantially higher for Australian buyers.

	Combined Print & E-Book Fiction	eBook Publisher	Sold by	US	UK	AUS	ASIA	INDIA
4	GONE GIRL , by Gillian Flynn.	Weidenfeld & Nicolson	Hachette	\$12.99	\$11.12	\$17.05	\$12.99	\$9.99
9	THE MISSION TO PARIS , by Alan Furst.	Weidenfeld & Nicolson	Hachette	\$12.99	\$16.01	\$19.90	\$12.99	\$14.21
10	A GAME OF THRONES , by George R. R. Martin.	Voyager	Harper Collins	\$8.99	\$6.34	\$9.95	\$8.54	\$8.54
11	CALICO JOE , by John Grisham.	Hodder	Hachette	\$12.99	\$12.81	\$17.05	\$12.99	\$9.99
13	PORCH LIGHTS , by Dorothea Benton Frank.	William Morrow	Harper Collins	\$12.99	\$13.49	\$18.20	\$12.99	\$12.99
15	A DISCOVERY OF WITCHES , by Deborah Harkness.	Headline	Hachette	\$9.99	\$7.94	\$12.04	\$9.99	\$9.99
16	THE INNOCENT , by David Baldacci	Macmillan	Macmillan	\$12.99	\$6.22	\$17.05	\$9.36	\$9.36
17	AFRAID TO DIE , by Lisa Jackson	Hodder	Hachette	\$9.99	\$7.94	\$11.27	\$9.99	\$9.99
18	STOLEN PREY , by John Sandford	Simon & Schuster	Simon & Schuster	\$12.99	\$15.88	\$17.90	\$12.99	\$17.04
22	THE LAST BOYFRIEND , by Nora Roberts	Hachette Digital	Hachette	\$9.99	\$11.21	\$16.91	\$9.99	\$9.99
23	XO , by Jeffery Deaver	Hodder	Hachette	\$12.99	\$15.88	\$19.90	\$12.99	\$14.21
24	THE LUCKY ONE , by Nicholas Sparks	Hachette Digital	Hachette	\$7.99	\$8.00	\$11.93	na	\$7.59
30	A CLASH OF KINGS , by George R. R. Martin	Voyager	Harper Collins	\$8.99	\$7.94	\$9.95	\$8.54	\$8.54
31	DEADLOCKED , by Charlaine Harris	Gollancz	Hachette	\$14.99	\$15.88	\$16.91	\$14.99	\$14.21
32	THE WITNESS , by Nora Roberts	Hachette Digital	Hachette	\$14.99	\$15.09	\$20.07	\$14.99	\$14.99
33	KISS THE DEAD , by Laurell K. Hamilton	Headline	Hachette	\$12.99	\$14.29	\$17.05	\$12.99	\$9.99

Changes in 2011 resulting in higher e-book prices

Prior to late 2010, average e-book prices for Australian buyers were not substantially higher than for buyers from other countries.

The Amazon book store began including the advisory message (*This price was set by the publisher*) when e-book prices jumped substantially following the introduction of the so-called “agency model” for e-book selling in the latter half of 2010.

Whereas Amazon as a retail e-book seller had previously been able to sell e-books at a price of its own choosing, it is now forced to sell at a price determined by the publisher because it is now only ‘an agent’ for the publisher and hence subject to publisher directions on pricing.

By late 2010, e-book prices had increased for all buyers from all countries. However, for many e-books, prices for Australian buyers increased by substantially more than for buyers from other countries.

(In April 2012, the US Department of Justice sued six publishers and Apple alleging that they had conspired to fix prices by using the ‘agency model’ for selling e-books. The suit is continuing. See <http://blogs.mallesons.com/ipwhiteboard/us-department-of-justice-sues-apple-over-e-book-price-fixing>).

The ‘agency model’ of e-book selling is effectively ‘Retail Price Maintenance’, a practice which has been outlawed for many years in Australia by the Trade Practices Act.

In Australia, the ACCC has so far declined to take action over the ‘agency model’. It has been reported that

“The ACCC has said that it is aware of the ebook pricing matters going on in the US, and that online retail competition is one of its key areas of scrutiny. It wouldn't comment on whether it will also hold an investigation, but said that retailers with concerns should raise them with the ACCC.”
(<http://www.zdnet.com/amazon-to-blame-for-agency-pricing-aba-1339335908/>)

END OF SUBMISSION