

Apple Agrees To Reduce iTunes Prices in UK

By Jennifer LeClaire

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Jeffrey Johnson, partner with New York City-based law firm Pryor Cashman, said he is not surprised by Apple's iTunes deal with the European Commission, which amounts to Apple agreeing to flatten its iTunes pricing structure across Europe. Previously, residents in the UK had to pay roughly 10 percent more for music purchased on iTunes.

Music fans in the UK have reason to celebrate. Apple announced it will lower the prices it charges for music on its UK iTunes Store within six months. The decision marks the end of a European Commission antitrust probe into Apple's pricing practices.

The prices will match the standardized pricing on iTunes across Europe. Consumers in the UK have been paying about 10 percent more for digital music downloads than consumers in other European nations.

Apple said it must pay some record labels more to distribute their music in the UK than it pays them to distribute the same music elsewhere in Europe. The company said it will reconsider its continuing relationship in the UK with any record label that does not lower its wholesale prices in the UK to the pan-European level within six months.

"This is an important step towards a pan-European marketplace for music," Apple CEO Steve Jobs said in a statement. "We hope every major record label will take a pan-European view of pricing."

Apple Case History

The European Commission launched an antitrust probe into Apple's iTunes, its method of selling music over the Internet, and its agreements with record labels in April 2007. The Commission said the distribution agreements Apple has inked with record labels to sell their music on iTunes in European Union countries "contain territorial sales restrictions" that violate its competition rules.

The Commission took exception to the fact that consumers were restricted in their choice of where to buy music and consequently what music is available, and at what price. For example, in order to buy a music download from iTunes

in Belgium, a consumer must use a credit card issued by a bank with an address in Belgium.

If Apple had been found guilty of breaching EU antitrust rules, it would have faced fines up to 10 percent of its worldwide annual revenues. Apple maintained that its actions do not violate EU law, but the company has come to an agreement nevertheless.

Convincing Regulators

Jeffrey Johnson, partner with New York City-based law firm Pryor Cashman, said he is not surprised by Apple's deal with the European Commission. Ordinarily, he said, a well-advised company will not enter into any binding agreements intended to address a regulator's concerns until it has received some assurances that the proposed agreements will satisfy those concerns.

"Europe and the U.S. are the most likely sources for this kind of active antitrust oversight, so I would be surprised if there were suits in other countries, particularly in light of the nature of the dispute," Johnson said. "To the extent Apple does have different pricing structures in other jurisdictions, however, there will now be considerable commercial and market pressure for Apple to agree to equalize their pricing unless there are compelling reasons to justify the differential."

Johnson said this case demonstrates the fact that, unlike traditional "brick and mortar" business models, businesses that market electronically stored and delivered products might find it hard to convince customers -- and regulators -- that there are good reasons for regional cost differentials with those products.