

Ladies & Gentlemen:

It's a privilege for me to be here with you today. My name is Tom Kunz, and I am the president & CEO of Century 21 Real Estate LLC.

I hope to share the unique perspective of someone who currently sells franchises to real estate brokers and provides services to affiliated brokers and sales professionals. Previously, I have been president of an independently owned and operated real estate brokerage company in Southern California, and also headed up a software company earlier in my career.

I am here representing the over 137,000 small, independent businessmen and women who are members of the Century 21 franchise system, either as brokers or sales associates. We have more than 7,500 offices worldwide, but half our offices have 17 or fewer sales associates and the median number for closed transactions by office last year was 141. We're a big system, but one that is proud to have so many small to mid-sized businesses in our ranks along with our larger brokers.

I can also speak from a real estate consumer's perspective because within the past year, I sold my primary residence in California, moved across country and purchased a new home in New Jersey. I might add that precisely because of my 31 years of experience in the industry, I made the educated decision to work with a full-service real estate professional on both transactions, using both a seller's agent and a buyer's agent. I got what I paid for, too: excellent marketing, local knowledge, and advice and counsel throughout the process.

[The Listing]

Since this is the seller's panel, I'd like to open by talking about the listing.

The issue of who owns the listing is fundamental to this conversation. I will tell you, in rather certain terms, that a listing is a broker's work product.

It is interesting to hear some people espouse the theory that selling a house is a simple process and that one must only "list" it with an MLS in order to make a sale. Anyone who has ever sold a house fully appreciates that the listing is merely the first of many steps.

A listing is the agreement between a broker and a homeowner that describes the manner in which a home will be marketed and sold. It often defines the manner in which the home will be presented and marketed to the body of prospective buyers. The terms of this agreement are -- and we believe should remain -- a matter for private negotiation between the listing homeowner and the broker of his or her choice, rather than the subject of government regulation at the federal, state or local level. If anything, the increased use of the Internet by potential sellers and buyers of residential real estate has significantly increased the negotiating power of the listing homeowner in setting the terms of such transactions, which was already significant as a result of his or her control of the key asset: the home itself.

It is our firm belief that the federal government should not get involved in dictating to state licensed real estate professionals and homeowners how those individual marketing plans should or should not be implemented.

[Competition in the Real Estate Industry]

Let me ask you, in what other industry do individual service providers negotiate a competitive price for their services and then aggressively market their products to the competition, sharing 50 percent or more of their fee to attract buyers?

And in what other industry do individual competitors voluntarily make their inventory available to other industry participants, empowering the competition to avoid the costs and infrastructure necessary to produce their own inventory?

I'll tell you ... The residential real estate industry is one of the last great industries where

entrepreneurs can open up shop next door to the largest brokerage firm in town, join a cooperative group called an MLS and share in their competitor's inventory, invest relatively little in start-up costs and actually make a living.

This industry is dominated by small- to medium-sized family owned and operated firms, many handed down over generations. There are more than 1 million sales associates and brokers operating in nearly 100,000 offices around the country. They are fiercely independent, yet through voluntary efforts unique to the industry, they co-operate with the competition in ways unheard of in any other industry.

And why? Because co-operation best meets the needs of the consumer. This is facilitated through a co-operative known as a Multiple Listing Service or MLS. Depending upon who you ask, there are anywhere between 800 and 2,000 MLSs operating in the country today.

Long ago, the industry recognized that through co-operative efforts brokers and agents could sell a customer's house faster and more efficiently. If you look at the past several years in particular, where many traditional investments and those who manage them have failed, real estate professionals have done their job quite well.

Simply put, the process works and works rather well. In a performance-driven economy, I would say the real estate industry has out-performed.

[The Market: Competitive & Efficient]

The simple fact of the matter is that the U.S. housing market place tends to be very efficient for consumers. When a real estate professional presents herself to a prospective home seller and makes a "listing" presentation, she does so with a full understanding of the very real pricing pressures and competitive issues. She presents her skills, resources, technology and marketing plan for the home. She also presents and explains her fees. Generally the typical homeowner will invite listing presentations from more than one agent.

Through the co-operative efforts of the industry, the Internet empowers home sellers to be well educated on:

- the market
- attributes of various firms and specific sales associates
- pricing
- and the list goes on and on.

Ultimately, the home seller selects a real estate professional and his or her brokerage firm. Each real estate professional competed against the other and ultimately a very efficient process driven by the homeowner determined which fee and which services best met the homeowner's needs.

As you are aware, sales associates are almost always independent contractors and our experience shows that all commission fees are negotiable. This very efficient price/value proposition process takes place thousands of times each day throughout this country. Some sales agents are simply better than others, and they are able to demand and earn higher fees. Some choose to discount their fees, which may or may not be reflected in their service levels.

At the end of the day, it is the homeowner who decides if the price value proposition meets his or her needs. The home seller ultimately controls the listing decision, which gives him a great deal of influence over the price of the services. As my father used to say, "People vote with their cash."

Thus, the marketplace determines what is acceptable. The fact is that the national average broker commission rate over the past dozen or so years has trended down from the 6% to 7% range down 5.1% according to *REAL Trends*, a leading industry consulting and analysis firm. That said, it is almost impossible to determine what the "competitive" price level is in any industry, especially one as dynamic as the residential real estate business where there are highly individualized

services and rapid technological change.

[Minimum Service Requirements]

If you are the listing broker, a number of states have determined that you must actually have a physical presence to properly represent the seller and provide the services necessary to manage the sale process.

More than a dozen states have determined that one cannot properly represent a seller's interests while operating out of a call center located two states away. Thus, we have seen a recent spate of Minimum Service Requirement (MSR) laws passed at the state level.

First and foremost, this is a states rights issue. I cannot, nor can you, dissuade the states from doing what they think is best for their respective citizens. They are acting to protect their consumers, not to shield the real estate industry in some way.

For the record, while we have no reason to believe that the states' motives are anything but well intentioned, neither Century 21 nor our parent company Cendant believes that minimum service legislation is truly necessary.

We believe in the consumer's right to choose their real estate representation -- or not -- and we also believe that the full-service real estate model employed by the majority of our brokers presents a compelling value proposition that is recognized on its own merits by today's increasingly savvy consumers.

That being said, it is important to note that in the past five years, there have been a variety of alternative real estate models launched, which is strong evidence that competition and the ability to innovate are alive and well and thriving in our industry.

And who benefits most from this competition? The consumer. They have more choices than ever before.

At the end of the day, the consumer should determine what is in his or her best interests. In fact, when I look out across residential real estate in America, I see a very dynamic and competitive industry that should be left free of federal government regulatory intervention to sort itself out.

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