Federal Trade Commission

October 2005

Confidential Material Subject to NDA

Real Estate Market in 2005

1) Today's sellers want more options and more flexibility than they've had in the past.
   - Consumers want unbundled services
   - Consumers want a more varied marketing effort put forth on their home's behalf
   - Consumers want to reduce the transaction costs associated with selling real estate
2) The traditional Realtor based real estate market is ill suited to service the evolving demands of the American consumer
   - Competition must be fostered within the real estate services community.
3) Rather than fostering competition the traditional Realtor based real estate services industry is stifling competition
   - I will suggest a number of needed reforms

Confidential Material Subject to NDA

Home Sellers Demand Choice and Flexibility

- Three quarters of all Americans begin their search for a new home on the Internet.
- 54% of consumers who plan to buy or sell a home in the next two years believe agents' commissions are unjustified
- 47% state the probability of working with the same agent in their next transaction is unlikely
- The same study found that 94% of by owner sellers will sell their next home without the use of an agent.
- Agent commissions are slowly falling: the average agent commission in the U.S. is now between 5% and 5.5% down from 6% a few years ago.

Confidential Material Subject to NDA

The ForSaleByOwner.com Model Provides Consumers with Choice

- The category leader in agent free real estate, the company has approximately 70,000 property listings today (across all 50 States), representing approximately $20 billion in home value
- ForSaleByOwner.com has grown at an average historical rate of nearly 100% year over year.
- ForSaleByOwner.com allows consumers to pay a flat, up-front fee (that averages $300) to sell real estate in lieu of a 5-6% commission.
- Many ForSaleByOwner.com customers use the company in conjunction with a reduced commission MLS listing that is provided by the company (YTD we've listed nearly 5,000 sellers in local MLS boards around the country).
- In 2005 YTD, the company has referred out over $3,000,000,000 worth of real estate to traditional agents through its referral program.
- 65% of the company's sellers report that the home has sold due its service.

Confidential Material Subject to NDA

Consumers Would Benefit From Increased Competition in the Real Estate Industry

- While the NAR estimates that only 14% of homes are sold without agents, Realty Viewpoint found that more than 20% are actually sold without an agent.
- ForSaleByOwner.com's internal exit interviews indicate that by owner sellers are happy with the results of our service.
- From dealing with hundreds of thousands of sellers over the course of the past 6 years it's our belief that consumers search out our services to avoid what they perceive as prohibitively expensive agents.
- And while average agent commissions have dropped they still have remained stubbornly high.
- These factors will continue to drive enormous demand for alternative real estate services models and those models should be allowed to flourish.

Confidential Material Subject to NDA

Industry Barriers to Competition

1) The NAR
   - Minimum Service real estate laws
   - Efforts to limit exclusive agency listings from appearing on Realtor.com (signage issue)
2) At the State Level
   - Overly broad interpretation of licensing laws by Departments of Real Estate
3) Broker Control of Departments of Real Estate
   - For example, 6 of 7 members of the Missouri Real Estate Commission are brokers.
4) Limitations on the exposure given to Exclusive Agency MLS listings.

Confidential Material Subject to NDA

Suggested Reforms

1) Repeal Minimum Service laws
   - Nothing more than an attempt to prevent reduced commission MLS listings
   - If the purpose is to protect consumers make it a disclosure law not an enforcement of commissions
2) Eliminate licensing requirements for businesses that only advertise or "list" properties for sale but don't actively participate in the sales process.
   - Allow the for sale by owner model to flourish
3) Insure that Departments of Real Estate at the local level are more balanced, objective and consumer oriented.
   - It would help guard against agents rubber stamping bad legislation
4) Insure that Exclusive Agency listings are allowed to flourish by guaranteeing that the fullest possible marketing effort is made by the agent.
   - Don't allow Realtor.com to turn away EA listings and limit sellers' exposure.

Confidential Material Subject to NDA