What’s New in Residential Real Estate Brokerage Competition – An FTC-DOJ Workshop
June 5, 2018
Segment 1
Transcript

ANDREA ZACH: Good morning and welcome to our “What's New in Residential Real Estate Brokerage Competition Workshop,” which we are co-hosting with the Department of Justice. My name is Andrea Zach and I'm an attorney in the FTC's Bureau of Competition.

On behalf of the entire FTC-DOJ workshop team, we are delighted that you're joining us today in person or via our live webcast. You're also welcome to join this conversation on Twitter. We'll be at the handle @FTC, and we are tweeting and taking questions using the hashtag #RealEstateFTCDOJ.

We want to extend our special thanks to our terrific roster of speakers for taking the time to travel here today and share their expertise with us. We greatly appreciate it and it's been a pleasure working with you.

Before we begin our substantive program, it is my job to quickly review some administrative and safety details. First, please silence any mobile phones and electronic devices. If you must use them during the workshop, please be respectful of our speakers and your fellow audience members.

Wi-Fi is available and the access code is on a brochure located at the information table right outside the auditorium.

Please be aware that if you leave the building for any reason during the workshop, you will have to go back through security screening. Please bear this in mind and plan ahead so that we can remain on schedule today.

Most of you received a lanyard with a plastic badge. We do reuse these for our events so we ask that you return them to our event staff after you leave for today.

If an emergency occurs that requires you to leave the conference center but remain in this building, please follow the instructions over the building's PA system.

If an emergency occurs that requires evacuation of the building, which we certainly hope will not happen today, an alarm will sound and everyone should leave the building in an orderly manner through the Seventh Street exit. After leaving the building, please turn left and proceed down Seventh Street across E Street to the FTC emergency and assembly area. Please remain there until instructed to return to the building.

If you notice any suspicious activity today, please alert building security. And restrooms are located in the hallway just outside this room.

For lunch there is a cafeteria in this building at the other end of this floor. We strongly encourage you to go there for lunch so you will not need to leave the building and go back through security. The cafeteria will be closed from 11:00 to 11:30, and that includes our break. But we will be providing coffee and water. And again, the cafeteria is closed after 3:00 PM.

Also, as you may have learned, food and all beverages other than water are prohibited in this room. So you may not want to buy that extra-large coffee at lunchtime thinking you can bring it in here.

Please be advised this event will be photographed and will be webcast and recorded with huge thanks to our amazing tech team back there who are making this happen. By participating in this event, you are agreeing that your image, and anything you say or submit may be posted indefinitely at FTC.gov or one of the Commissions' publicly available social media sites.

The webcast recording as well as a transcript of these proceedings will be available on the FTC workshop webpage shortly after this event. Our intent is to create a lasting resource for anyone interested in these issues.

With respect to public comments, thank you to all who have submitted public comments to date. And a reminder to those that haven't yet, the public record remains open through July 31st to enable additional comments after the workshop.

As I mentioned earlier, we'll be at the Twitter handle @FTC and accepting questions during the workshop using the hashtag #RealEstateFTCDOJ. We'll also be accepting questions via these question cards for those who are here in the audience. Question cards are available on the information table located outside the conference room. And our intern Dillon Smith—I'm looking for Dillon—also has copies as well. There's Dillon if you need any.

If you have a question and you've completed your card, please raise your hand and a member of our event staff will collect your card. Please note that due to time constraints, we may not be able to address questions, but workshop staff will review all questions received.

If you should have any logistics or other questions throughout the day, please see a member of our event staff. We'll be happy to help.

And that is it for the housekeeping details.

Now I have the great pleasure to turn to substance, and introduce and welcome our first speaker, FTC Chairman Joseph J. Simons. Chairman Simons was sworn in as Chairman of the FTC on May 1, 2018, just a little over a month ago. He previously served as Director of the FTC's Bureau of Competition from 2001 until 2003, and as Associate Director for Mergers, among other roles, from 1987 to 1989. Please join me in welcoming FTC Chairman Simons. Thank you.

[APPLAUSE]

JOSEPH SIMONS: Thanks, Andrea, and good morning and welcome to you all. I want to thank you for coming to our workshop that we are hosting with the Department of Justice. Our plan is to explore the state of competition among residential real estate brokers.

Of course, I am delighted to welcome our colleagues from the DOJ and our distinguished panelists, as well as everyone in attendance and those also watching online. I also want to welcome some special guests from state and foreign competition authorities as well as congressional staff. Thank you for coming.

I'm very hopeful this will be an exciting and interesting day for everyone. And I want us to especially thank the team from both the DOJ and the FTC for pulling this event together and making it possible.

Posting public events on important topics of the day is a critical part of the FTC's work. These events help us take a step back from our enforcement work to develop a broader view and stay current with emerging trends, to learn about new business models, and to ask about how consumers are faring in fast-changing markets.

Not only do we have an opportunity to learn from industry and academic experts, we can engage in a free-flowing dialogue about policy choices and industry behaviors that affect and sometimes impede competition. Public events like this one help us to develop a better understanding of where to focus our future efforts for the benefit of consumers, whether that involves enforcement, additional research, or advocacy before other policymakers.

Today the focus is on competition among residential real estate brokers, and more generally, how technology is changing the way that consumers buy and sell homes. On a topic like this there is a lot at stake for consumers. For many, buying a home is by far the most important financial decision that they will ever make. For most, it is at least partially a fulfillment of the American dream. And at the end of the day, the costs are potentially very high if something goes wrong. In this context, it's not surprising that most home buyers and sellers seek the help of real estate professionals to guide them through this process.

The market, like many others, is being transformed by the broad adoption of new technologies. Emerging tools support consumer-facing websites that allow prospective home buyers to view homes for sale nearly instantaneously. It's easy to see how this has changed the home buying experience for consumers. Studies show that nearly all home buyers start their process by going online.

But there are changes occurring on the other side of the transaction as well, as real estate brokers and technology companies adopt new strategies for marketing homes and generating leads. Even if the changes occurring in the market are driven by consumer demand, there is value in taking a broader view of market trends so as to be sure we understand what the new marketplace dynamics are. If necessary, we may need to recalibrate our expectations about what's important to consumers, and in turn allow that to shape both our consumer protection and competition efforts.

And that brings us to today's topic. What is the state of competition among residential real estate brokers?

The last time we explored this question was at a joint workshop held, of course, by the DOJ and the FTC back in 2005. At that time, the news of the day was that real estate agents and brokers were just beginning to use the internet to match home buyers and sellers, and new business models were emerging that relied mainly on the internet to market homes—so-called virtual office websites.

Today, among other things, we're going to hear about changes in technology and information flows that continue to affect competition among residential real estate brokers. With all the talk today in antitrust circles about two-sided markets—that's one of the hot topics—real estate brokers recognized early on the benefits of compiling information on local homes for sale, first in printed books, and today in efficient, real-time databases. So real estate professionals have been involved in two-sided markets for a very long time.

Cooperation among brokers can create an efficient marketplace where sellers can list their homes, and buyers can learn about homes for sale from many different brokers. But from an antitrust standpoint, individual agents and brokers are competitors in the market for providing residential real estate brokerage services to consumers. So when the brokers get together, and when they act together, they must comply with the antitrust rules relating to competitors.

The FTC and the DOJ's interest in real estate brokerage competition stretches back a long time, many decades. In 1983, the FTC issued a staff report on the residential real estate brokerage industry. That report highlighted the cooperative nature of the industry in which brokers depend on one another to sell homes efficiently. This cooperation has historically occurred through multiple listing services, which of course operate as broker-to-broker information exchanges.

While cooperation among brokers generally benefits home buyers and sellers, the 1983 FTC report also identified two side effects of that cooperation—a lack of competition, and a mechanism for withholding cooperation from what we call maverick brokers who had a different way of doing business. These concerns are also documented in a 2007 FTC-DOJ report, where we again noted the lack of competition on commission rates, as well as obstacles in competition such as restrictive MLS rules that discriminated against nontraditional brokers.

These concerns led the antitrust agencies to file several enforcement actions over the years. In fact, I was involved in some of them the first time I was at the FTC back in the mid-1980s. Most of these cases involve MLS rules that discourage cooperation from limited service brokers. An example of this was the FTC's successful challenge to Realcomp’s policy of excluding information about listings by nontraditional brokers to its MLS feed.

Similarly, in 2005, the DOJ filed a suit against the National Association of Realtors alleging that NAR's policies denied equal access to listing data from innovative brokers who relied on the internet to do business. In addition to potential anti-competitive effects from private parties, we also know there are other impediments to competition in these markets.

The 2007 FTC DOJ report identified a number of state laws that limit consumer choice and prevent discounting by real estate brokers. As a result, the agencies engaged in competition advocacy by commenting on a number of state proposals to impose minimum service requirements for brokers, or to require lawyers to perform certain services that were at the time provided by non-lawyers.

We argued that these proposals were unnecessary to protect consumers and could in fact cause consumers to pay more for residential real estate services. We also identified state anti-rebate laws as a source of higher commission rates in those states that had them. Today we will get an update on whether these, and other state and local laws continue to impede competition among residential real estate brokers.

Finally, there are lingering concerns about how well consumers understand the complexities of actual real estate transactions. Anyone who has bought or sold a house, particularly recently, knows the transaction is highly complex, with many layers of disclosures and multiple fees paid to different businesses providing service during the transaction. Some point to a lack of transparency as a source of consumer confusion and a hindrance to more robust competition. We hope to explore this more today, and whether there are other ways to help consumers feel more confident when they buy or sell a home.

So today, there is much to discuss and to learn. And we look forward to hearing from a variety of perspectives on how the FTC and the DOJ can help competition in this market for the benefit of consumers.

Again, I want to thank the panelists for their participation in today's workshop. It looks like a tremendous lineup. And I want to remind you that we are collecting public comments through July 31st. I encourage those who have thoughts they want to share with us to submit a comment to the FTC's website. Thank you again.

[APPLAUSE]

ANDREA ZACH: Thank you, Chairman Simons.

And now it is my great pleasure to introduce Brad Inman. Brad is the founder, owner, and chairman of the board of Inman, an award-winning daily news service that has covered the real estate industry for more than two decades. Please join me in welcoming Brad. Thank you.

[APPLAUSE]

BRAD INMAN: Greetings, everybody. Thank you, Mr. Chairman, and thank you also to the civil servants. I was impressed in my preparation for this—the service they give, and the service of a lot of people in this town that we sometimes don't acknowledge. So three cheers for them.

[APPLAUSE]

I feel a little like I'm at a family reunion where the police show up. Did you get that? I'm going to get really serious, so I thought I'd at least have one light moment.

But I would like to thank the FTC and the DOJ for many years shining sunshine on the process of buying and selling homes. As I often remind the industry, you're not selling opiates and you're not peddling drugs. You're selling people's homes. And this is very important.

But the leadership here—to avoid anti-competitive behavior—is really, really important. What the government does we can debate forever. But what is important there is that oversight.

And also the people in this room and out in the audience, many in the industry that have worked hard to comply with all the new rules and changes as they come along. There are a lot of well-spirited people in the industry that do their best.

So for me the question—and I was asked to set the table here so I'm going to get to both sides of how I see it, and try to remain independent. I have some opinions, but I'm going to do the best I can to try to share with you some of the questions, but also I think how different sides view this issue.

I think we all agree that preserving the best of the best is a good thing. But at the same time, how do we unleash innovation? Protecting what is good is important, but protectionism that thwarts change that we know is necessary is not.

And this is a tricky industry to figure out. I've been kind of banging my head against the wall for 30 years to figure it out. In preparation for this, there's a lot of nuance and difficulty and complexity. Sometimes that's a smokescreen and other times it is quite complex because the process of buying a home is complex—and it's a big deal.

But what has changed? Let me go through about six or seven points of what I think has changed. And I'm going to use the 10-year horizon of the last 10 years.

Thanks to innovation, it's really obvious that the digital marketing of homes is much, much easier for the real estate industry. And the consumer has a much better experience finding houses. It's quite amazing. I left my device back there, but I was going to punch in some addresses. But it's quite amazing what you can now do with your mobile device in just 10 years. It's just dramatically different—how we have integrated a variety of databases, we've put them together. We get notifications. We see pictures and virtual walk-throughs in three days. It's just amazing.

You can get a home valuation of almost any property. You could type in 1600 Pennsylvania Avenue—probably a little expensive—and get an instant return of the value of that house. So from that point of view of the home search, it's been dramatic.

But buying a home remains expensive, confusing, time-consuming. It's an opaque process for many consumers. And in an era of on-demand we should expect more speed, more transparency, and simplicity, which we really haven't gotten.

And the big picture is this. The industry is more or less, many people believe, organized as it was in 2008. The innovators are banging on the door, but not fundamentally changing the structure of how real estate is bought and sold. And if you look at investment capital, which is often pointed to, there's an extraordinary amount of money pouring into the category to change the course of how real estate is bought and sold. But much of that is going to productivity tools to support the traditional system, which is fine. No judgment. And also a lot of it is going to very traditional models.

We've read a lot about the recent round of funding by Compass. It's about $500 million. But if you look at Compass, their business model is the tried-and-tested business model that's been around for many, many years. Now the implication isn't that this is a bad thing. It is just what it is.

For this discussion, I'm going to use the word traditional. And I'll use legacy and other terms, and they can be loaded. But what I mean by that is companies that operate inside the boundaries of the rules and norms of the multiple listing service in that ecosystem, and who deploy full service broker-agent business models. Again no judgment, but that is the ecosystem that I'm going to refer to.

Now is that working as well as it should? Some will argue today that the data is flowing freely and most consumers are getting qualified representation. And what could be better than that? This is a gnarly, difficult transaction that we don't do very frequently. And we want advice and we want help. How we get that is probably one of the questions.

You will also hear from folks today that will say this industry, you know, I'll call it orthodoxy, makes it difficult to innovate. It does not always serve the consumer. And there are really those two sides of the argument. And then there's bad behavior. And I don't think in this room, necessarily, that bad behavior is still represented. But real estate has always been plagued with scandal and people that take advantage of the system.

So what's another change? Well, one is technology has actually put deeper roots into this system. It has given agents—and I'll use active, commission-based salespeople when I use the word agents, that's what I mean. It's been given an incredible productivity boost, enabling them to deploy tools to make life easier for themselves, more efficient, but also for the customers.

An agent's position in this real estate value chain—think of franchises, broker owners, agents, portals, and technology—has never been more fortified as a result of those technology tools. Also there's just kind of a common recognition by many of the well-funded innovators that the only way to sell a house is through an agent. So, as a consequence, you have brokers, portals, franchises, everyone coming after agents.

And then you have consumer expectations, which if you look at what's happened over the years despite all the change, is that consumer expectations about using agents has probably never been stronger. I often joke and say a commission-based real estate agent has fought innovation by just outworking everybody. And innovation can't quite catch up with them.

Now let's look at what has stayed the same. That real estate ecosystem has not changed much. And let's bring it down to its simple, simple elements. Consumers use agents. Sellers list with agents. Listings are put on the MLS. But transaction fees remain relatively high. When you think about what people have to go through and what they have to pay for a transaction has stayed more or less the same. And the process is entangled. And it's uncertain. And as a result, that's one reason that the consumer needs hand-holding, and they need the structure that's there.

Also the marketplace, if you think about buyers and sellers and listings and demand, is more or less the same. Listings are created through a decades-old system of simple broker cooperation, an agreement that says I, broker A, will show your listings if you, broker B, show mine. And unlike other industries because of that system, such as transportation, stock brokerage, e-commerce, e-books, the real estate process still remains quite inefficient. And the idea of a digital home sale seems very elusive.

Now part of the reason, and I think there's good and bad in this, and you'll hear both arguments today, the listings are organized and managed by 600-plus local MLS organizations. And this is an elaborate system of broker agreements about who chooses to get the listings and where they are distributed. And this itches at the very root of a problem of actually who owns that listing data. And then who gets their hands on that information? In the end, the MLS is now and continues to be at the heart-blood of the industry because of the very fact that they have that data.

Now generally speaking—and there's a lot of complexity around this, and I know at Inman we're constantly trying to sort it out—listings, generally speaking, can only be published by local participants who are licensed real estate professionals to represent consumers in the transaction. But in reality, since the DOJ and NAR settlement agreement, anyone who can afford to pay the MLS often gets the rights to publish listings online.

I just heard recently that the MLS here in the Washington, D.C. area licenses that information to 15,000 different companies. I don't know the makeup. I'd love to see the composition of that. I suspect a lot of it is devoted to productivity. A lot of it is devoted to, I mean, the portals and others. The question is, how many scrappy entrepreneurs get their hands on that, which I'll address in a second. But this does create an allegation that there's this uncertain unevenness about who benefits from the listing data sharing.

Now, I think under this system local innovation is alive and well. I think a local entrepreneur can go in, get a license. You know, we jokingly say in California it's easier to get a real estate license than to become a licensed beautician. And the reality is the barriers to entry are very low to become a real estate agent. So a local entrepreneur can get that. They can begin practicing. And they can get access to it.

But one thing that has evolved over the last 10 years, our ability to aggregate a national database of listings is very, very expensive. I saw at a recent seminar by someone I really respect that it only costs $2 million to license data and normalize it and publish it. Well, first of all, $2 million is a lot of money for an entrepreneur starting out with his or her credit card.

But the second part about this it's like saying the only cost of having a child is buying a car seat, a stroller, and baby formula. The reality is, $2 million may get you in, but how much do the portals currently spend just schmoozing with MLS executives, not to mention the teams and the maintenance and everything that goes into it. So if someone wants to scale an innovative new business and it depends on getting access to the MLS, this requires a lot of capital and a lot of staff and a lot of sophistication, and this is very hard for that entrepreneur that is just getting started.

Now what has changed in 10 years? Well, one, the internet has become the de facto buyer's agent because of a richer user experience on the search side. The buyer is using information and the internet to do much of what the agent did in the past. And they're probably taking over some of the duties of the agent, and it's probably resulting in—we know it is—some buyers not being represented, which as a consumer writer for many, many years I argued one of the great things about this system is representation in this sequence.

Another thing that we know has changed for sure is disruptors are routinely entering the business. They often fail, but they often also move towards a conventional business model. Sitting here is Glenn Kelman, the founder of Redfin. And I think when Redfin began they had some pretty wild and wooly ideas about what they intended to do. I had two students at Cal-Berkeley who started ZIP Realty. And oh, my god, what they were going to do was amazing without the real estate industry. But what happens over time is they migrated into a traditional model that in many ways, I would argue, is predicated on the system of broker cooperation and the MLS data.

Now where is the innovation funding going? Well, it's going to one area, the online lead generation industry, which you could arguably say doesn't do a lot for helping the consumer, but does a lot for a scrappy industry trying to find leads. So when you look at that capital, is it all going to innovative new models to give people alternatives to the traditional model? No, most of it is going to productivity, lead generation, and other models.

Now is the listing data more widely distributed? Absolutely. But because of the cost of aggregating the listings today, because of the complexity of the system, it's only a few people or a few sites that we go to to get that information.

Now where competition does exist—and there's been a lot written about this recently—is in the streets, agent to agent. And there's also a great deal of pressure on the traditional brokers who are feeling the pressure from the new entrants, the broker owners. And that's why you see margins declining. And they're suffering. And that's where a lot of that competition occurs. The question is, does that competition—agent to agent and with the broker owners—allow for new innovators to come in this space?

The last area of innovation that could upset the entire apple cart is the whole iBuyer movement. And the concept here is Wall Street buying houses to flip or to rent. We could have a whole 'nother seminar: is it a good thing for America when Wall Street goes into Main Street? Historically, that hasn't been a great thing in my personal opinion. But they are fully engaged right now in buying real estate for a whole different reason unrelated to what the real estate industry is focused on. They are the new investor. But the beauty of their entry is they're used to a high performing, highly efficient marketplace of selling stocks and bonds. And so they only want to get into this if they are fairly confident that there's the same sort of efficient market. So you see all kinds of dollars rolling in to innovative new technologies that create that efficient marketplace. And at the end I think everyone will benefit for us to get to that digital transaction.

Now, could all these changes add up to a lower transaction costs and a more efficient experience for the consumer? I think the jury's out. Eventually I hope that's where we get. I always say technology is like fire and water. It goes wherever it wants, and eventually it finds a place to solve a problem or create a whole other unintended consequence.

But let's break down those changes. Listing data has created a rich search experience, but it has wedged people into a traditional business model. It's also true technology is making agents do a better job. So that could create more efficiency. And we could see a reduction in transaction costs. But it also always comes down to the MLS. And that's why, I think, the eyes of the government are important here—to make sure that the decisions that are being made by the real estate industry around the MLS are so important.

And there's also the question—why is it that some of these alternative models have really gotten nominal traction? Is it because of anti-competition? Is it because their models don't resonate with the consumer? Is it because they haven't figured it out quite yet and will some day? Those are the things we have to examine because there are too many horror stories of them being prejudiced against in local markets by people who engage in bad behavior.

And there's also consumer confusion. And that persists. You know, transaction costs are wrapped into these documents at the last minute when you're making an epic decision in your life. And the average consumer does not understand it. I've written two stories recently where this real estate expert went searching for homes and found himself in the hands of not the listing agent, but someone who ran an ad, or got bombarded with e-mails and wound up being almost represented by an agent who lived 70 miles away from the listing. And that expert's Brad Inman. And I'm just trying out these systems. But the point is, there's a lot of confusion.

There's also a lot of confusion around how commissions work. Does the buyer pay the commission? I have a great writer for Inman News, Teke Wiggin, and he keeps asking this question over and over and over, and he never gets a very clear cut answer from the industry or from anyone. It's like the old days of mortgage broker fees being very confusing for the consumer.

So this whole system—who pays for what and how they pay for it, I think these are problems. Even though this group will never come to fundamental agreements in certain issues, this group can choose very deliberately and very consciously to take all the information and all the data you have to create a more transparent and less opaque world where people truly understand how it works. And that only benefits everybody. First and foremost it benefits the consumer, but secondly, it benefits the industry—if there's not confusion.

When we're confused we don't like to do a transaction. When we're confused we don't like to make that decision. So right in the hands of the industry is all this incredible information, whether it's productivity or commissions, all of which can be published.

And we can also clean up all of the links that go to different things about representation so that when I go out to look for a house, I don't accidentally wind up in the hands of someone who doesn't know as much about that house as the listing agent.

So what are the big questions for the regulators? I think I hit on them and I'm determined to stay on time. First, yes, the MLS offers a comprehensive database—envy of the world gang. Any of you that have traveled around the world, go anywhere and it is the envy of the world. We have a comprehensive database of homes for sale. What could be better than that? We should hail that. But that's like anything. When you do something really great it's about going to the next level and improving. But that exists. But it can also represent an impediment to innovation, which has to be looked at.

And while there is probably industry-wide disagreement about who owns the data, and it will persist, there could be a consensus about how to unleash that data as fairly as possible, and getting as much information as possible to give consumers more information. And yes, the data is held by industry intermediaries, and some people are using it in the wrong ways, and we should crack down on that.

And finally, the infrequency of buying and selling a home cannot be forgotten. And unlike e-commerce or travel or stocks, it may prejudice consumers towards a traditional model. And that may be OK. Fine. That could be great. But we need to make sure when we do that, that there's transparency and clarity about the choices that consumer is making.

I'll end with this. The real estate home buying and selling process, for me, always seems on the cusp of change. I see something new and I say, this is really going to change it. And then suddenly old habits, maybe good habits, laws, rules, processes get in the way of progress. And there are cracks. You know, there are already cracks in the broker cooperation with the de facto buyer's agent being the internet. But how much and how quick? Of course, I always want things to happen tomorrow.

But I think, again, I'll just go back to what I said at the top—how do we preserve the best of the best and at the same time unleash innovation? Thank you very much.

[APPLAUSE]

JESSICA DRAKE: Thanks very much for those wonderful remarks, Brad. I'm going to invite our first panelist to join us on the stage. And while they're coming up, I'll just let everyone know, if you do have a comment card and you'd like to submit a comment for us to consider during the panel discussions today, if you'd just hold it up in the air, one of our staff members will come by and pick it up from you.

MATT SIEGEL: Hello. I wanted to thank Brad, once again, for giving us his perspective on the status of the real estate industry as it stands, including what has changed and the many things that, in his view, have not changed. And I should add—anybody who's interested in comparing the industry that Brad described today to the industry as it looked 10 years ago, you might want to take a look actually at the FTC-DOJ Report on Competition in the Real Estate Brokerage Industry, which Chairman Simons mentioned in his opening remarks, published actually around 11 years ago now, I think. And that's available on both the FTC and DOJ's websites, both the general websites and the websites for this specific workshop.

So anyway, my name is Matt Siegel. I'm a trial attorney at the Antitrust Division of the DOJ. And I'm pleased to be here to welcome all of you to our first panel of the day, entitled "Listings Data, Emerging Technology, and the Structure of the Real Estate Market."

Before launching to the specifics of this particular panel, I want to start by just giving you a brief overview of what the rest of the day is going to look like. After this panel, we'll have a 15-minute break. We'll reconvene for the second panel, which is called "Developments in Real Estate Fee and Service Models." They are the panelists who are going to talk about some of the alternative business models that we've seen emerge in recent years in the real estate brokerage business, and whether any of these new models have taken root to the point that they're actually affecting the state of competition in the industry generally, in the panelists' views.

We'll also hear a bit about what the panelists perceive to be some of the obstacles to these kinds of innovative new models—fee and service models—and conversely, any potential catalysts to innovation that they might have observed. So we'll talk a bit about that.

We'll then take a lunch break. I don't have any particular wisdom to impart on that.

After lunch we'll come back and reconvene at 2:00. And we'll have our third and last panel of the day, which is called "Regulatory and Industry Factors Affecting Real Estate Competition." This last panel—we're going to hear about various views of the state of competition, specifically in the real estate brokerage business, and the degree to which various regulatory and market practices in the industry might be fostering robust competition, or conversely, might be impairing or hindering competition in some respects.

The roles of the antitrust agencies in promoting and protecting competition are likely to arise at this panel, both in our roles as its advocates for competition, and also as enforcers of the antitrust laws. In that context—the latter context—enforcing the antitrust laws, hopefully we'll hear a bit about the consent decree in the United States v. National Association of Realtors, the 2005 case that many of you know about. As you probably know, that case was brought by DOJ in 2005, resolved in 2008 by a consent decree, which is a 10-year decree, and is set to expire in November of this year.

Finally, at 3:30 this afternoon, we'll wrap up with some closing remarks from Robert Potter, the chief of the Competition Policy and Advocacy section of the Antitrust Division of the DOJ. And that'll be the workshop.

So turning to the matter at hand, this panel, as I mentioned, “Listings Data, Emerging Technology, and the Structure of the Real Estate Market,” I'm going to leave most of the introductory remarks to the panelists themselves.

Suffice it to say that anybody who has bought a home or even seriously considered doing so knows that real estate listings are the lifeblood of this business. If you're selling your house, you'll likely want as many qualified buyers to see your listing as possible. Conversely, if you're a seller, or if you're shopping for a home, rather, you typically want access to convenient and ideally comprehensive and readily-searchable listings of all the houses in your part of the country.

So that's what this first panel is going to be about. How real estate listings are created, how they reach potential homebuyers, and how both of these processes have or have not changed in the past 10 years, particularly given the greater availability and quality of web-based tools and mobile technology.

We'll also hear a bit about whether any of the changes that have occurred in the creation and dissemination of real estate listings might have affected the actual structure of the industry, and in particular, the nature and intensity of competition, which of course, is of special interest to the antitrust agency.

So we've got a great group of panelists today. Let me just introduce them briefly. Let's see, I'll just proceed going from from your left to right, from my right to left.

First we have Art Carter. Mr. Carter is the CEO of California Regional Multiple Listing Service, CRMLS, which serves more than 93,000 member agents. He also serves as Chair of the Real Estate Standards Organization, commonly called RESO.

And next, on to his left, we have Luke Glass. Mr. Glass is the Executive Vice President of Industry Platforms for Realtor.com, which is a well-known consumer listings portal. In that role, he also serves as the general manager of ListHub, a listings syndicator of real estate listings to web publishers which is affiliated with Realtor.com.

We have Glenn Kelman to his left. Mr. Kelman is the CEO of Redfin. And as many of you know, that's a technology-intensive real estate brokerage firm.

And finally, at the far left is Kathleen Philips. Ms. Phillips is Chief Legal Officer of Zillow Group, which operates another one of the major consumer-facing consumer real estate portals.

So with that, I'll turn it over to my co-moderator, Jessica Drake of the FTC, to get the ball rolling.

JESSICA DRAKE: Thanks, Matt. I'm Jessica Drake. I'm an attorney here at the Federal Trade Commission and I'm very pleased to be here with our esteemed panel today.

As Matt teed up for us this morning, one of the most important developments in the residential real estate industry in the last decade or so has been the proliferation of listings data available for consumers to view online, usually for free, and often before the consumer has chosen to engage a real estate professional to represent them.

I thought we'd begin the conversation by talking a little bit about how this information gets to consumers. Each of our panelists today represents a different stage of the listings data supply chain. And I'll ask each one of you to start off your remarks by introducing your business and where it fits into the flow of data, which we've attempted to depict on a slide here in a simplified form, which we'll put up on the screen now.

Glenn, do you want to start us off by talking about where the listing originates?

GLENN KELMAN: Hi, I'm Glenn Kelman. I do not come in peace. Redfin is a brokerage that is committed to saving consumers money. We exist because of the good work here in this room. When we applied for funding from venture capitalists, there was widespread skepticism that the industry would share data with us. And we always cited the 2005 lawsuit, the 2007 study, and that has been what has allowed us to give the consumer a better deal.

We charge 1% instead of 3% to list a home. So we are a brokerage with real estate agents, but we use technology to make those agents much more efficient. We have saved people about $100 million a year for many years. And every year we grow very fast.

So our business is to go out, meet consumers, take pictures of their houses, talk to them about how to market those properties, get them into the MLS and on the other websites so that the whole world can see them, and then to represent those customers for the lowest cost possible.

I have personally called people in different states trying to overturn anti-rebate laws. We have done everything in our power to offer the lowest possible fee. We do have a strong opinion about whether disruption is happening in the real estate industry. We've gone from $31 million being put into real estate technology companies in 2012 to $3 billion last year. That is a massive increase and it's because there's a broad consensus that the industry is going to change. I think many of the companies that are now entering the space are not serving traditional real estate agents, are not productivity tools, or lead generation platforms, or advertising sites. They're brokers. And they're competing with us on price and they're using our success as the basis for their fundraising.

I know that Brad cited Compass as a traditional broker that raised $500 million. But you just have to account for the rest of it. And the rest of it is barbarians at the gate like us who think they can get free access to the information by becoming brokers. And they're absolutely right. And that's where it all starts—is that every time we take a picture of a listing, we have to give it to people who hate our guts. And that's the way it ought to be. Because when we beat each other's brains out, the consumer wins. The consumer saves money.

And this idea that the consumer isn't saving money just isn't my experience. We now spend hundreds of thousands of dollars every year to study real estate commissions. We're not allowed to publish that data because it would actually break antitrust rules. But about half the people working with a real estate agent are asking that agent for a deal. And the agent is contributing money at closing or giving the customer a discount.

So we just see a lot of pressure on traditional real estate agents right now to give the consumer a better deal. And it starts with the fact that they have to share the listing in the MLS. And that's the system that has allowed our company to compete with other people who provide the data. And it's what's going to allow smaller companies to try to beat us, which is the most healthy competitive dynamic you could ask for.

JESSICA DRAKE: So, Art, I think he's teed you up very nicely. So Glenn has introduced the MLS and the obligation to share that listing into the MLS. Could you talk a little bit about what happens to a listing once it's shared with the MLS?

ART CARTER: Sure, and that's a pretty detailed story based off the figure that you guys are seeing. I do run a multiple listing service and I do come in peace. From our standpoint, in all honesty, what you're looking at here is a picture of how data flows. And it's probably not the most accurate description or depiction of what a multiple listing service is.

What Glenn talked about through the dissemination of data is really the back-end process of what MLSs do. I run a broker cooperative. And to a large extent, my job is to be the referee in between the brokerage community. And we do that through process and procedure. And that process and procedure runs through our rules and regulations. And when a listing enters into our system, we are, as MLSs across this country, very keenly interested in making sure that that listing adheres to a wide variety of rules, and making sure that it fits into the data models that each MLS has set up.

And you can see that all of the data feeds outside of the multiple listing service—in deference to the FTC and the DOJ, I wanted this diagram to be much more complex than it is. And I think we came to an agreement that we would simplify it primarily because it is not a simple process.

Each one of the lines you see here is represented by many technology companies and many contracts and many different situations. So from the demonstrative standpoint, I think it gives a fairly simplistic idea of what it is that you are looking at from a data flow. But just recognize that the complexity that goes on underneath the hood is a little bit more than what you're looking at here.

And the demonstrative basically talks about the listing information going from the listing broker into the multiple listing service. And within the CRMLS system, to enter in a residential listing into our system, you're filling out north of 400 fields. And once the MLS has gone through the process of making sure that the listing has met all of its obligations to the rules and regulations that it is subject to, then it is entered into the multiple listing service. And from that standpoint, it is viewed by, in CRMLS's situation, by 93,000 different agents.

And literally within minutes I can tell you that—in Glenn's case, in seconds—we have companies that actually are hitting our databases and disseminating that information to a wide variety of sources.

And you're seeing a number of them here from the portals, which we have two represented on the panel here today. It goes out to broker, IDX, and VOW sites. And it goes out to syndication sites through companies such as what was mentioned with what Luke runs. Buyer brokers view the information, disseminate the information to the buyers individually themselves as well.

So it is, like I said, a complex process. But from a data flow standpoint, especially with the work that's being done at the Real Estate Standards Organization, I will respectfully disagree with Brad as to the costs of aggregating data. Those costs are going down every day.

And from the Real Estate Standards Organization standpoint, we have north of 350 organizations that are platinum certified. From an insider's standpoint, that means that they've standardized a huge chunk of the consumable database that is needed to deliver information out to the consumer. And from a standardization standpoint, we have organizations, one of whom is sitting in the room here today, Homes.com, that has shown that especially after they've done the initial work of taking standardized data in, they can bring new MLSs on board in less than an hour.

So the total cost of aggregation is dropping and dropping dramatically, and we're looking forward, especially at the Real Estate Standards Organization and for the MLSs we represent, of developing a situation where a plug and play is absolutely a possibility in the very near future for our brokers and agents.

JESSICA DRAKE: I wonder, Art, if you could talk just briefly while we have the diagram up, about what the difference is between the various state of flows that are listed there for brokers—the IDX and the VOW feeds?

ART CARTER: So, you know, I'll take it from a contractual standpoint. The broker, IDX, and VOW feeds are actually governed by the rules set within the CRMLS rules and regulations. And as a broker, you have the rights to display all participating on the IDX site, all participating participants' information on your website.

Within the CRMLS system, we do not have anybody who has opted out. There is an opt out provision for IDX. We do not have anybody that has opted out of the system.

With VOW there is the capability of displaying a much deeper data set. There are 260 IDX fields that are fed out of CRMLS, 364 VOW fields. So I will tell you that we do not have very many VOWS. I did a survey across the Cove Group, which is a collection of MLSs that meet on a regular basis, and we're looking at less than 0.05% of the brokerage community is actually utilizing the VOW feeds from those pieces.

Syndication, in all honesty, I wish we could come up with a new term for syndication because for a lot of you sitting in the crowd, you have no idea what that means. For a lot of people who I speak to who are my brokers and agents, they don't know what it means either. Basically what it means is the ability for a broker to direct where those listings that they and their agents have put into the system go to a number of sites outside of the major portal sites. And basically, most MLSs in the country are in a situation where they allow the broker to determine, I think we're over 100 different sites—I'm sure Luke has a better count—of different websites that brokers and agents can syndicate their information to, which means they are sending their information from the MLS to all of these different websites. So good information from that standpoint.

The buyer broker side is really from a view standpoint, a touchpoint, really, for the majority of the buyers that we see coming through our system.

JESSICA DRAKE: So why don't we go back to syndication now? And I'll ask you, Luke, to talk a little bit about where ListHub fits in and what ListHub's role is to the extent you want to add to Art's remarks there. And then talk about also Realtor.com or the portals that you're responsible for.

LUKE GLASS: Thank you. So I do represent two of the boxes on the graphic.

So from a ListHub perspective, it's kind of like when you pick a bad baby name early on you're kind of stuck with it, but you still love it. So we did coin the term syndication. I do wish we could have just called it advertising in retrospect.

Ultimately, brokers have complete control within the ListHub platform. So brokers can turn publishers, we call them-- those are what the small P's are on the graphic—publishers are something that consumes the data. Our system is 100% controlled by brokers. They can turn publishers on and off at will daily if they so choose.

We have about 238 publishers nationally that are part of the ListHub network. All of them aren't available everywhere. Some of them are regionally focused, or some of them are focused nationally. But across the entire platform, 238 publishers. They represent over 800 different websites though. So one company might have multiple websites that they operate for consumer awareness.

So when you log into the ListHub platform, you will be able to see, by picking publisher A, it will give a complete description about what that company does, all the websites it powers, and what the general kind of practices are of those websites.

Agents cannot control the listing distribution. It is, again, 100% controlled by the broker. And also only the broker's listings, they are only controlling the distribution of their own content. In contrast to what Art does with the MLS where he licenses all the data in the MLS to an IDX vendor or to a brokerage or to a third-party site that does comparative analytics, we only work with the broker controlling their own content from that syndication platform.

And from a Realtor.com perspective, we have agreements directly with the MLSs in the industry. We source virtually all of our content from the MLS infrastructure. We have a very few broker feeds in some rare instances. So we rely heavily on the industry infrastructure and the MLS as our source for data in order to power Realtor.com.

Brokers provide the listing content. There's a value exchange there that we provide back. So while we have licenses and agreements with the MLSs to access that content, brokers are still free to choose whether or not to distribute that content to Realtor.com as well.

So we believe that in that value exchange we have an inherent responsibility to give something back to the content providers in exchange for the value for us getting the content to display on our site.

JESSICA DRAKE: And last, but not least, Kathleen, could you talk about how Zillow fits into this picture and how you get your listings information?

KATHLEEN PHILIPS: Sure. I'll speak just to Zillow's role as a portal though we do participate in some other mechanisms on the chart. We are, essentially, a recipient of listings from a combination of brokers, MLSs, and individuals who are posting For Sale by Owner listings that we offer free on our site.

I'll echo what Art said, which is this is a pretty simplistic view of the world. Just to give you a sense, we inject listings from thousands of sources, listing brokers and MLSs. We're actually really excited about the work that RESO is doing to standardize the listings. And I'm proud to say we were among your first platinum certified companies. So it is very complex. Ultimately, our focus is trying to aggregate the most data possible in an extremely complete and fresh way because we think that serves both the sellers and buyers within the marketplace. And our consumer mission has always been central to what we do in terms of democratization of that data, both listings data and then lots of other data associated with the homes to give context.

JESSICA DRAKE: So we'll come back to that term you just used, the democratization of the data, in just a minute. I want to start by sort of framing the issues with a broader question that will guide our conversation, which is, how has this increased availability of listings information changed the consumer experience on both the buy side and the sell side of a real estate transaction, and how has it changed the structure of the real estate industry? So Kathleen, maybe you could go back to that point about data democratization. Could you talk about what that means and what it has meant for the industry?

KATHLEEN PHILIPS: Sure. So data democratization is the way that we think about the free availability of data to consumers. And those of you who are my age or a little bit older probably remember shopping for real estate in the day where, essentially, you just trusted the agent you worked with to show you homes that were available, to tell you about comparable sales, to tell you about listings history and tax history.

And generally that was fine, but it didn't really put the consumer shopper in the driver's seat. Similarly, the seller could not be certain that their listing was getting the broadest possible exposure, and as a result, the best possible price for the transaction. So that has had a pretty dramatic impact on the industry.

What we see—and we all participate in this ecosystem in a similar way, which is that we're providing a lot of data to consumers—and what we see is consumers still use agents. The clear indication that we have out in the marketplace is that these are complicated transactions. They're infrequent transactions. And so consumers on both the seller and buyer side want to be represented by professional real estate agents.

That being said, consumers are doing a lot more of the work themselves upfront. So by the time they engage an agent, they've developed a pretty clear picture both of what they're looking for and what's available in the marketplace. As Glenn pointed out, there is heavy competition within the marketplace to represent those consumers. As a result, commissions go up and down over time based upon whichever set of services the consumer wishes to engage.

I think it's fantastic that there are lots of alternative models being developed out there. From our perspective, we're indifferent to how that develops because our focus is on the seller and buyer, and getting that buyer into their home. But with the transparency, I think, has come a lot of competition and a lot more transparency for both sides of the transaction.

JESSICA DRAKE: Luke, I'll turn to you next. In your view, what has data democratization meant for consumers in terms of their search process?

LUKE GLASS: Excuse me. I think there are two perspectives. So over the last 10 years, there's far more publishers today, far more places displaying the content. Second, I think there's much more contextual data around that—crime, school, transit, what it's like to live in the neighborhoods, local content. And, finally, all of this data has been made available mobile through many of the sites as well.

And so there is—undoubtedly, the consumers are more enabled today than they were 10 years ago. And I think the processes that have come out through platforms like ListHub, increases in MLS feeds, and the way that MLS standards have evolved have really powered this idea of a more educated consumer over the last 10 years. They come armed with more information, and yet they are still using realtors at approximately the same rate they have for the last 10 years.

But I think the second perspective is around this idea of data democratization from the perspective of free access to data, unencumbered access to data by any participant. And I have a much more pessimistic view of that moving forward. I think large companies get a disproportionate amount of the value by making data free. When you take the data and don't have to give any value exchange back to the content provider, you then are unencumbered—you have no fear of losing the listing content and you're able to focus more on the consumer value proposition.

So as you're taking the content from the content providers, and with no fear of losing that listing content, you can be much more aggressive on the consumer side. So the largest companies that have the most consumer eyeballs then benefit disproportionately from that by being able to leverage that consumer behavior data, giving no advantages or exchange of value back to the content providers, and using that power to influence all market participants.

So in the first perspective, looking at the last 10 years, I think all participants have risen, all boats have risen in that tide, but looking forward, I think that really kind of does advantage the larger companies over the small companies. I don't think what you'll see happen is lots of startups innovating and taking down the big companies. I think what you'll see is the big companies become further entrenched because they don't have to give a value proposition back to those content providers.

JESSICA DRAKE: Let me just ask you to follow up on that a little bit. When you talk about introducing a value exchange in the context of exchanging listings data, does that introduce a cost that will eventually be passed on to consumers?

LUKE GLASS: Well, I'll talk about the model a little bit. So brokers and agents in the US are able to put their listings on Realtor.com today at no cost. There is no cost to the broker agent. The value exchange is, we'll put your content up in front of our 60 million unique users. On our listing detail page, we show broker logo, broker name, listing agent, office phone number, a link back to the broker's website. We provide lots of ways for that consumer to get back to that content provider.

And so ultimately, consumers on our page—and on Realtor.com specifically—we only have contact information for the listing agent on the page. We have a lead form that's anonymous. We don't do any buyer agent advertising on our LDP. So if you're a serious home shopper and you want to find a listing agent, the only agent on our page is that listing agent. So you can contact them multiple ways. You can also link to their Realtor.com profile from that page.

So there are lots of calls to action on that page for the listing agent. And I don't think that interjects any costs at that point. We don't charge the listing agent broker anything for those leads that go back directly to the listing agent or broker as well.

JESSICA DRAKE: Glenn, I'm going to turn to you next. I think you may want to respond to some of that, but I also wanted to ask you to talk a little bit about what access to this kind of listings data has enabled Redfin to do and what has made it possible for you to get that access. I know you talked about that a little bit earlier today.

GLENN KELMAN: The only way we've been able to build a brokerage is because we've been able to build a better website. So we invented map-based search. We publish every field that we get. IDX data is important to us. VOW data is important to us. We want to show the consumer every possible piece of information because it lets us meet more consumers. And I think the issue here that everyone has is, why the heck hasn't the internet made real estate more efficient when it's done that to every other market?

And what the internet is really good at is meeting consumers. So real estate agents are very inefficient at prospecting for business. There are still a large number of real estate agents who are seeking to meet consumers through very inefficient activities. And when brokerages can build better websites where we can meet consumers at no additional cost on a per consumer basis, we can pass that savings on to the consumer. When advertising sites are democratizing the data, it benefits the consumer as well. The consumer can see that information.

But the reason it doesn't lead to lower fees is because those intermediaries are charging real estate agents for access to the consumer. And those fees paid by real estate agents are ultimately paid by consumers. So the internet should make real estate agents more productive and it should lower fees, but if there's rent-seeking behavior, where there are websites between the consumer and the real estate agent that are charging the real estate agent for access to the consumer, you have, on one hand, a benefit, which is that the consumer can see that information, which is good.

But on the other, you have a question, which is, is that actually lowering the fee paid by the consumer to the real estate agent, when the agent now has to pay a high fee to meet that consumer in the first place? So I think we should share the data with all the portals. I think we should share the data with all the brokerages. But if you really want to build a more efficient mousetrap, the brokerages have to meet those consumers directly. They have to have more like an Amazon model, where the internet audience that they've built leads to lower prices.

JESSICA DRAKE: When you talk about the desire to share data with everybody, what do you think about Luke's suggestion about a value exchange for that? What do you see there?

GLENN KELMAN: Well, that's complicated. Maybe I can answer that with an anecdote. So yesterday, we sold a $6 million house in Seattle. The customer had pledged to also buy his next house from us. That customer saved over $100,000 in fees because he sold with us. It's an infrequent purchase. Consumers are risk averse. They don't want a strange sign in their yard. The hell with that. He saved $100,000 because he listed with Redfin.

And he would have saved another $100,000 if he'd bought his next home with Redfin, which was going to be even more expensive. But he changed his mind, and the reason he changed his mind is because real estate agents are pocketing listings and he was worried that all the listings for sale aren't available in the MLS on Redfin.com. I hit the roof when I hear that. We want every website to have every listing.

The problem is that the websites outside the MLS don't reciprocate. You can post a listing on one website and that website doesn't have to give the listing to any other website. When you post a listing on Redfin, we have to give it to all the members of the MLS. And that's what makes the system not only fair, but competitive. So our challenge in trying to regulate how listing data is shared is that it has to be reciprocal.

And what I like about all the members of the MLS is I compete with you on price. I compete with you on service. You contribute listings to this database. I contribute listings to this database. And we've developed a system where everyone, to get that data, has to give that data. And in the absence of giving and getting, folks operating outside that ecosystem actually create a fragmentation in the market, where buyers have anxiety that there's one website that has a listing and other websites don't. And that favors the largest websites.

That's the point where I really agree with you, Luke, that if we don't require all websites to contribute listings when they receive listings, you then have a system that is gamed by real estate agents who are trying to pocket the listing, promote it in corners of the internet, but not everywhere, especially not on websites that are trying to give the consumer a better deal. It drives me crazy. Can you tell? That's why I wore a short sleeve shirt. I'm getting all pissed.

JESSICA DRAKE: So I'll redirect you a little bit. We'll come back to the pocket listing, give you a chance to recover yourself. But I do want to talk about where it is working, in Redfin's perspective, right now. I wonder if you could talk a little bit about the VOW policy, the VOW policy, and what it's meant for Redfin.

GLENN KELMAN: Well, I love the VOW policy. I know that not every broker can afford to build a VOW website. That's the issue with the industry. But there's just a bunch of brokers that are coming up now, whether it's going to be Opendoor or FlyHomes or Really or 10 other companies that are getting hundreds of millions of dollars in capital that are going to show up at the MLS and get the listing data from Art and everybody else. They're not going to get a partial feed. They're going to get the whole feed.

And if it were up to us, we would take all the information that is currently behind a registration wall, VOW, and we'd make it IDX. The fact that you require people to register helps our sales model. It helps us force you to register so then we can call you and email you and ask you if you want an agent. But we would prefer that you just see it all. And we see that as a concession to the industry that came about when you did the original settlement nearly a decade ago. But if it were up to us, we'd let it fly.

JESSICA DRAKE: So just for clarification, the VOW policy is basically one that allows, as Art mentioned before, a more extensive data feed, but it requires the website publishing it to have users log in order to view that data. That's right?

GLENN KELMAN: Right. And right now, we require people to register for data, because we belong to the MLS, that is freely available on other websites that are getting a syndication feed and that's an advantage. We would prefer to have it totally free and available. I think everybody on this panel would.

ART CARTER: Just quickly—it's not just a registration process. It's a development of agency. A development of agency in between whoever searching for properties on the internet and the brokerage that's providing that information. So it's a little bit deeper than just a registration process.

GLENN KELMAN: I shouldn't have been so flippant. I was just trying to—

JESSICA DRAKE: So Art, actually, I was going to ask you to expand a little bit about that. What do you see as the effects of the VOW policy from the standpoint of the MLS?

ART CARTER: Not really extensive. I understand Glenn's points and where he's coming from as to what the consent decree accomplished in the industry. I think its intended accomplishments or consequences really didn't come about. It's not this fertile ground for innovation that I think everybody was thinking was going to occur when the policy was put into place. And I know we've had discussions as to what we see from our standpoint.

The difficulty that MLS has faced—I mentioned earlier that we're policy and procedure driven organizations. You've given us a policy that was essentially technology and time bound. And in giving us that policy, most markets saw an influx of people wanting to get those feeds and, in all honesty, Glenn's probably right in to a certain extent that he would love to get that registration information. Most brokerages are kicking back to us that that whole process was something that the consumer didn't really have a desire to do.

Plus the fact that Glenn's talking about the expansion of IDX even further than it has been. There has been an expansion over the last 10 years of our IDX policies that include statuses that were not available when the VOW policy, the consent decree, went into place. So really, the vast majority of information that the consumer really needs and wants can be delivered through an IDX feed, or in the portals case, feeds that are built off of that IDX information. I don't think there's been any lack of innovation being allowed across the spectrum, from data delivery based off of the information that's being provided on the IDX side or the feeds that our portals are getting.

LUKE GLASS: Glenn, just to confirm, when you say set it free, are you talking within the brokerage community or are you talking about for any third party, regardless of who they are and why they want the content?

GLENN KELMAN: I would say within the brokerage community and with any website that's willing to give any listings that it gets, too. The only problem I have is when you give listings to websites that don't give listings back because then you fragment the market. You create disincentives for sharing and you prevent buyers from seeing all the homes for sale. They have tremendous anxiety that they're not seeing all the homes for sale.

So I think the VOW feed is a compromise from a decade ago that we wanted to make sure that when we shared this information, that it was with a bona fide buyer of a home and not just with a looky loo on a website. But those distinctions over time have become difficult to defend, so at least within the brokerage community, every field that's available in VOW I would make available in IDX. I would let the brokers show it on their website without requiring registration. I would make it easier for brokers to build a website that shows all of that data.

That said, the system we have now is fine. I'd rather have the data with registration than not have the data at all. But where I feel careful about is forcing brokers to share data with websites that don't share back because it enables anticompetitive behavior.

JESSICA DRAKE: So let me just ask this a little bit more broadly, if anybody else wants to pick up on this issue. As the consent decree with the DOJ and the National Association of Realtors expires and the National Association of Realtors has some more flexibility to think about the VOW policy, what changes would you like to see? Glenn, you've talked a little bit about what you'd like to see the ideal be. Do you think that's something that's achievable through VOW policy or through a new policy?

GLENN KELMAN: I don't know. I'm not a lawyer. I think that if you made VOW fields available via IDX, that would probably be a good thing. But whether the DOJ and the FTC need to regulate the MLSs again—I'm not sure. I just haven't seen any bad behavior in years. Years. And I'm now in the room where it happens, where I see some rinky dink little broker who's trying to charge a lower fee apply for data access and get it, get all of it. When they have one listing, they get 100,000 listings in return and nobody bats an eye. And if somebody so much as farted on that guy, I'd call you. I just haven't seen it.

JESSICA DRAKE: Fair enough. So maybe a broader question to pose would be whether there's ways that we can talk about that that might help the sharing of data work more efficiently for both consumers and innovators in this industry. I'm going to ask Kathleen to start us off here.

KATHLEEN PHILIPS: Sure. So I just should say, our position on the current state of the market, I think, is a little bit different, simply because we're not—the VOW doesn't impact us. So we're actually really happy with the amount of data that is out there and free. And what we would like to see is for that to just continue. We think that it's terrific that there are lots of innovators out there, that their access to data is reasonably easy and straightforward. It's hard for me to imagine a world without the consent decree and say whether I think we would be there or not absent it.

But what I can say is, you look at the state of the market—it's competitive. As Glenn pointed out, there are lots of different models out there that are working for consumers, and consumers have an unprecedented access to listings data and to contextual data around homes. So that makes us happy. We'd like to think we played a role in making that happen. But as I said, you can't isolate one market participant or the existence of the consent decree and determine what would have happened otherwise.

JESSICA DRAKE: That's fair. I wonder if you could talk about one of the things that Brad mentioned in his remarks and Luke alluded to this as well, which is whether, when you have this data that's available in the environment that it's in today, whether that can engender consumer confusion. Could you talk a little bit about what you see as issues around consumer confusion, particularly around identifying the listing agent?

KATHLEEN PHILIPS: Yeah, I think that it's going to be impossible to eliminate consumer confusion. Because I think fundamentally just the way organized real estate works is confusing to consumers. They don't understand commissions. They don't understand who really pays the commission, as Brad alluded to. They don't understand fundamentally the concept of agency, which, for us lawyers in the room, we understand what an agency relationship is. Consumers don't understand that.

I don't think, though, that the technology participants in this industry have exacerbated that confusion. In fact, I think we've done the opposite, which is to create a lot of power around consumers. Was it more straightforward back in the day when consumers saw a yard sign, and there was a number on the yard sign and they called and they understood that that agent was selling the home? Yes, but would you trade the opportunity for a consumer to do all their research on their own and seek out all this information with themselves in the driver's seat to go back to that day? I wouldn't.

GLENN KELMAN: I'm going to respond to that because I don't think we have to trade. We should make it easier for the listing agent to get credit on a website. There is now a multibillion dollar industry built on a fundamental misdirection, which is you come to a website, you see a listing, you see a real estate agent next to the listing, and you think that real estate agent is the listing agent. You call him with questions about a house he has never set foot in. Redfin makes money from this. Zillow makes money from this. Almost every website makes money from this.

And because I run the call center, I know that when people call they think that we are the listing agent. And what we could do is modernize the attribution system so that the listing agent gets a better deal. And you may say, why is this consumer advocate arguing for a better deal for listing agents?

And the reason is that the dream is collapsing. In markets like Boston and San Francisco, you have a significant number of listing agents withholding listing data from the MLS because they feel that it will be distributed to websites where no one can see who they are, where it's buried somewhere at the bottom of the site. And this is not picking on one website or another. This is our website too.

We want the MLS to modernize the attribution so that the listing agent has an incentive to post the listing immediately to every website. If the listing agent feels like he's getting a low down dirty deal, if the listing agent feels that these websites are misdirecting the consumer, then you will be in a situation where he withholds the listing or he publishes it selectively to the place that gives him the best deal, which isn't good for the consumer and isn't good for the overall market or competition.

And so I don't know that the FTC or the DOJ has a role in this, but the most important policy that we see the National Association of Realtors advocating for is modernizing listing agent attribution, so that every listing agent decides to publish the listing rather than pocket the listing.

JESSICA DRAKE: Luke and Art, do you want to respond to that at all? Is there anything that you all have been thinking about around attribution?

ART CARTER: Yeah. Unfortunately, I don't have data that is completely up-to-date so part of it is anecdotal. But in surveys done in the past by the California Association of Realtors, they asked home buyers about their experience online and whether they were satisfied or not. And in the past, that figure—as high as 72%—came back at less than satisfied with their online experience.

And at the time the primary reason was data quality and things along those lines. But what we're hearing from brokers and agents—and I talk to quite a few on a regular basis—is there is confusion. There is confusion as to these faces that they're seeing to the right of their listing, and who they contact, why they need to contact them, and in all honesty, the response rate out of any number of those agents is not what it should be as well. So I think there is quite a bit of consumer dissatisfaction with the experience that they're having online, even though some of those reasons may have shifted.

LUKE GLASS: I'll counter that a little bit. So I think what we find is consumers really want two things. The first thing they really want is an answer to the question. And the second thing that actually drives the consumer satisfaction is whether or not it got answered quickly. So everything that we do on our site is designed to get them an answer, and get them answered as quickly as possible. That drives the highest consumer satisfaction. Realtor.com has its highest consumer satisfaction we've ever had since we've been measuring it, and so we've really optimized around getting their questions answered, and their questions answered quickly.

And look, I think if consumers were confused, it hurts us more than anyone, I think, at the end of the day. So we really do try to balance—and there's always going to be a balance between where the listing agent is on the page, where your lead firm is on the page, whether you show buyers agents on the page or not, the wording you use, and your business model are very interlinked into how that page looks to the consumer. But I think all of us will agree, the number one thing you have to do is make sure that the consumer is getting a good experience on that page, and that means getting their question answered and getting it answered quickly.

I think the third component of that is, did they get a good answer to their question? And that's something we are going to continue to optimize on. So I think Brad told a story, if a lead gets sent to someone who's never sold or bought a house in that neighborhood, not a good experience for the consumer. Not a good experience for that agent. They're not going to convert that lead. So there's all losers in that scenario. So you'll see us, particularly, continue to try to optimize quick, answer, and a good answer from a good realtor.

MATT SIEGEL: Just a follow up question for Glenn on this idea of being—the consumer being confused about whether they're calling the listing agent. If they do call the listing agent, is there the possibility that they would then be shut out of having buyer-side representation? Because they've been procured, and now that's it. Is that their intent? How do you envision that?

GLENN KELMAN: I know there are challenges here, but fundamentally, we have to believe in the intelligence of the consumer to make good choices. One choice is that I want a buyer's agent to represent me, to negotiate hard with the seller, to find problems with the house and make sure they're repaired, to help me when the appraisal comes in low. We've built that business. We want people to choose to hire us.

But I think it's also possible that people will list homes and the buyer will buy that home directly from the seller. That's what happens with new construction, when builders are trying to make the process more efficient. It's what Brad alluded to with iBuyers, which actually overall charges a higher fee to the consumer, but it does try to sell the home directly. Opendoor is trying to do that.

So I just want to put our faith in the consumer, that we say, if you're trying to contact the listing agent and buy this home directly, caveat emptor, there are going to be some risks associated with that, but you can try to get a lower fee. Or if you want to buy it from a buyer's agent, you are going to get great representation, we hope, and this is what the buyer's agent is going to charge you.

And you should buy it the way you buy any other service, because you think it's worth it. And I believe that Redfin's service is worth it. I believe that other buyer agents are worth it. But I think we ought to make that case in the marketplace.

LUKE GLASS: I do think there is clearly a buy side and a sell side discussion here, though. And on the sell side, Glenn referenced it—when you're selling your home, I think there's four main attributes that sellers consider. Their nirvana is the highest price, the lowest commission, and the fastest amount of time, with all convenience. No showings, no repairs. Like, that is their nirvana. That doesn't exist.

And so models you see, like iBuyers, or models you see with lower commission, you're able to trade off among those four things. You can't get all four of them. And I don't know that consumers or sellers are fully educated on the trade-offs they're making.

I think it leads to a lot of the off-market properties that Glenn referenced as well. You hear about that whisper listing in the neighborhood, the coming soon. The trade-off there is you believe you're going to sell it faster. They've got a buyer already in line. Maybe you're willing to take a lower price. I don't know that they know what those trade-offs are, and maybe it is very hard to articulate what those trade-offs are before, those four attributes.

But I do think on the seller's side, there's a lot of education that's going to be needed for them to understand the differences of using a realtor, going to an iBuyer platform, using a Redfin agent, versus the more traditional agent at a higher commission. What are the trade-offs? And some of that work is Glenn's job, or some of that work is Opendoor's job. But I think some of that work is the industry's collective job as well, to make sure sellers are best served.

ART CARTER: I think it's important to note, from an industry standpoint, statistically, the concern about the double ending of deals, which is where we're going with some of this stuff—the surveys that I've done, we're looking at a 30% drop over a period of 10 years on deals that are actually being double ended by the same agent. So that historical average of where double-ended deals occurred within the system has statistically been dropping by 30%. The amount of agents that are double ending deals has actually doubled. It's gone up by 100%. So technology has definitely had an impact on the industry and especially the practice of double ending deals.

JESSICA DRAKE: So that's a nice transition into what I wanted to move to next, which is to talk a little bit more about off-MLS marketing. Glenn, if you've recovered enough to go back to that topic. I don't want to send you over the edge.

So first, if we could talk a little bit about what is meant by the term off-MLS marketing. What does it look like? Anybody can take this one.

KATHLEEN PHILIPS: Well, I think Glenn feels most passionate about it, so he should probably just grab it.

GLENN KELMAN: Well, you just have an agent say that if you work with me, I've got a buddy in my office who has a listing that he's not going to put in the MLS or not going to put in the

MLS right away. And, therefore, you end up paying that agent a higher fee than you might otherwise would because you believe he's part of an insider network.

And part of the solution to that could be MLS rules. The Seattle area MLS, which is represented here today, has been most stringent about it, which we appreciate. But part of it is also just giving the listing agent an incentive to post that listing to the MLS. We want the listing agent to get more credit on our website, even though that will divert sales from Redfin, because we know that the overall ecosystem needs those incentives to ensure that the listing agents post their listings to the MLS and any other website that the MLS shares the listings with.

JESSICA DRAKE: So when you talk about the incentives to post the listings, one of the things that Art was just talking about is the desire to—like a dual agency representation, to double end the deals, I think, is the term that you'd use. And you talked about the fact that the dual agency seems to be dropping overall, right?

In our interviews, as we were preparing for the workshop, we heard a lot of talk about pocket listings, about off-MLS marketing. And I know that that's been around for a long time. In fact, as mentioned in our 2007 Report. I think it was actually mentioned in our 1983 Report too, when we talked about pocket vest listings.

So I'm wondering if you could speak to whether you think that this off-MLS marketing is increasing in prevalence. It doesn't sound like it's something new. Is it a bigger problem today? Is it a bigger problem—

GLENN KELMAN: I think it's increasing in prevalence. You should go to Boston. There are just so many houses that seem to sell before the open house. How did that happen? There are sales that are happening where it never reaches the MLS. So I'm not saying it happens everywhere, but I am saying that it happens in some places and the primary beneficiary is the agent, not either the owner of the home or the buyer of the home.

LUKE GLASS: And I'll add to that. So we only take feeds from MLSs. But we've had more requests from brokers to take a separate feed in order to get their coming soon listing. So Realtor.com doesn't have for sale by owner. We don't have make me move. We don't have coming soon. We have none of these off-MLS listings.

But for the first time, we've got multiple brokers asking us to take a separate feed. And to date, we haven't done it, but ultimately we have to try to best serve the consumers, so we have to find some way to work with the industry to get those listings in front of consumers because I don't believe the seller or the buyers are best served by not seeing everything on the market. I don't think appraisers are best served by not being able to see what homes are selling for and the trends. So if they truly never make it into the MLS, even if it's a sold listing, I do think it's overall affecting the consumer experience.

GLENN KELMAN: And we've flipped on this, just to be clear. We told MLSs, stop this from happening. It's destroying us that listings are showing up on other websites that get MLS data that aren't sharing those listings in return. And when the MLSs did not stop that from happening, we started offering coming soon in the areas where they encouraged it. And I hate it.

ART CARTER: I will tell you statistically, we dove into the situation within the CRMLS footprint and about 12%, from our calculations, of the sales within our footprint are coming off MLS. But to characterize this as only a pocket listing issue is probably a little bit too simplistic because there's a lot of different reasons as to why a listing might be held off the MLS.

Luke is very right that there's two consumers in this game. There's the buy side and there's the sell side, and the sellers may have some very specific reasons as to why they do not want it to go into the MLS. They don't want it to go into the internet. And from our standpoint, that the seller must have that ability, an informed seller must have that ability to withhold their listing from whichever mechanism that a real estate professional may use to market it.

And from our standpoint, what we're seeing—we have an exclusion process by which an agent can get a signature from a seller. And within the last 12 calendar months, we've had about 11,500 exclusions filed with our system. Only 436 of those did not come back onto the MLS prior to being sold. So in the informed situation, the vast majority of our sellers want their property on the MLS, but will withhold it from the MLS for a wide variety of reasons—for repairs, for the ability to clean it up and get it ready for marketing. So you're looking at a 4% figure of our listings that actually don't come back on market.

So the differential that is concerning from our standpoint is that eight plus percent that are unknown to our system because there's not any exclusions being filed on them, yet they are still being held off market. But recognize that a portion of that is also going to be new home sales and things that may not necessarily ever hit the MLS because a buyer and a seller engage outside of a real estate professional and may bring a real estate professional in otherwise.

KATHLEEN PHILIPS: Right. And I would just say that I echo your view that an informed consumer should be able to dictate where the listings go. And I understand the pitfalls of that. The question is, how do you determine whether a consumer is really informed? I think the other piece of the puzzle for us is empowering for sale by owner, because there are sellers who want to sell their homes themselves.

I also think that if you look at the prevalence of pocket listings—I live in San Francisco, and it's driven by the fact that inventory is so constrained. So agents have long lists of consumers who've been trying for months to buy a home and nothing's available. It's very similar in Seattle. So I don't think you can necessarily separate those two issues.

GLENN KELMAN: Well, first of all, I completely agree about For Sale by Owner. We post those listings on our site as well and we should not require an owner who doesn't hire an agent to still share listings in some way that he doesn't want to, or she doesn't want to. And I also agree that the inventory constraints are part of what's driving this. But I think another part of what's driving this is the listing agent feeling that the ecosystem doesn't work for him or her.

KATHLEEN PHILIPS: I think that's fair.

JESSICA DRAKE: So one of the things that Luke mentioned earlier was the iBuyer model and the four aspects of the home sale that might be traded off depending on what model you choose. And I wondered if—Kathleen, if you could talk to Zillow's experience with the iBuyer model. What has that told you about what consumers are looking for?

KATHLEEN PHILIPS: Much to my personal surprise, it has told us that there is a segment of consumer out there who values price less than they value some other things. I was very skeptical when we started the Instant Offers platform that people would knowingly take less money for their home just to get a quick sale, but there are lots of people who feel that way. And you tend to see it working in markets that have—homes that are right around the average price of homes in the US. So we're not talking about multimillion dollar properties here.

But we see it with parents who have small children, people who have inherited homes, people who just really want to get on to the next home. And it sounds incredibly obvious, but it took us a long time to focus on the fact that once someone starts shopping for a home, particularly once they've identified the home, all they care about is getting into that home. They actually don't care about their old home anymore.

So it's sort of like when you buy a new car. You don't really, like, have a long goodbye with the old car. And we think this is an alternative that some consumers want and that's why we've launched this. Our participation in the marketplace is brand new, so I don't have anything really to report yet.

JESSICA DRAKE: That's fair. I think one of the things that strikes me about it is that it seems like there's an analogy there, that the consumer is explicitly making a trade-off, that I'm going to sell this faster and I know that I'm going to get a lower price than maybe what the market price would be. The analogy to the off-MLS marketing is that there, you might expect that your home is going to sell faster.

I don't know whether or not it is. I'm wondering if there's a way to ensure that consumers can appreciate the trade-offs associated with marketing off an MLS as explicitly as they can appreciate them in the context of something like your Instant Offers.

GLENN KELMAN: There's a difference. We've been doing instant offers for a year and a half, and I think mostly what's driving it is actually limited access to consumer credit. I'm very much in favor of the consumer finance protections that have been put in place over the past few years. But basically, it's much easier for a business or Wall Street to get credit than it is for a consumer.

When we are representing someone who wants to move up, they don't care about their old house. I completely agree with Kathleen. But they absolutely care about getting the most money from their old house because that determines how much they can spend on their next house. And the problem is that 10 years ago, it used to be that you could borrow money for the next house while you owned your current house. Now, you as a consumer can't.

But even though credit has become tight for consumers, it's become ridiculously easy for businesses. So we are basically a provider of credit. And that to me is why consumers are paying that extra amount. I understand that arbitrage opportunity in the iBuyer program. I think it's harder to make the case that a private sale, when you've hired a real estate agent to market the property to as many people as possible, is often in the homeowner's best interests. Maybe you're very private. You're Tom Cruise. You don't want it on the internet because it's going to show up in the LA Times and you don't care about money.

But I just haven't seen that to be the experience. I think most of the time that a listing agent pockets the listing. He's gotten the owner to agree to it, but it hasn't—it's benefited that agent more than anyone else. And on the iBuyer's side, I would just say that you should remember we're no longer a fiduciary. We're no longer an agent. We're a counter-party.

We are sitting opposite from the homeowner at the negotiation table and the only way we got comfortable with it was by making sure that there were two separate entities with two separate incentive systems, one who's an agent, saying you should not take the easy money. We can sell this house in two weeks. We're going to put it on the MLS. It's going to go out to every website in the world and we're going to have buyers lined up out the door. This isn't a good deal. And the other person saying, but it's easy money. And one out of 10 people tend to take the easy money. Because they have to.

KATHLEEN PHILIPS: We do employ the same dynamic, that we insert an agent into the process, because we think that benefits consumers, to have a full view.

LUKE GLASS: I do think the question about the model is, is the evolution of the professional in the iBuyer program? So do realtors change the services that they offer, or are the realtors no longer part of some of those processes? So some of the iBuyer platforms actually don't include an agent in the process. And so I think that's where you're going to see the consumer be the least informed. I think the way that Redfin has laid out what they do—

GLENN KELMAN: And Zillow.

LUKE GLASS: And Zillow have both at the beginning started with trying to inform the consumer. So I think the evolution of those programs will be the real question of how those turn into marketplaces. And is it more than 5% or 10% of the market? I don't know today, but I think we'll continue to learn.

JESSICA DRAKE: And Art, I wanted to ask you, do you think that there's room for models like the iBuyer model on the MLS? Right now, it sounds like some of that iBuyer activity is probably not making it onto the MLS.

ART CARTER: Well, in all the cases that I'm seeing, it is making it on the MLS because they have to sell the property after they have purchased it. So that is the primary touchpoint at our standpoint of these properties coming back into the MLS environment. So yes, there is a role that we have to play. I have talked to enough of the iBuyers, Zillow and Redfin both employ the same method, that they utilize the MLS to turn that asset once they've purchased it.

JESSICA DRAKE: So for our last main topic here, I want to talk about how all of the innovations around listings data and technology have affected competition among brokers. So I want to ask the question broadly and see who wants to respond. First, how have portals, like Zillow and Realtor.com and Homes.com, changed or disrupted the way that real estate transactions come together, and what effect, if any, have they had on commissions that consumers are paying for the services of a real estate professional?

KATHLEEN PHILIPS: Luke, do you want to go first?

LUKE GLASS: Sure. I'm not aware of any effect we've had on the overall commission rate of anything. I do think something to look at though is that there could be the potential for a tipping point, if one company has enough consumer behavior data that they become the de facto marketplace for the buying and selling of homes. I don't think that exists today.

But I think you have to continue to monitor where in the process are you from that consumer behavior data. So not looking at the listing data, but thinking about it from the consumer and the eyeballs interacting with that content, and does that provide power in a marketplace for one participant over others. But today, I don't think the portals have had any—or at least, Realtor.com, I don't believe, has had any effect on commissions.

JESSICA DRAKE: What does that tipping point look like, Luke? Is it just a question of critical mass of eyeballs?

LUKE GLASS: It's a great question. I think it becomes pricing power, whether it's the advertising that you're selling, the offers that you're making for homes. And there's lots of models converging that bring together mortgage, title, insurance, the home buying process becoming more of one ecosystem. Redfin's doing it. Zillow's doing it. We're building out more tools for ourselves to build out those ecosystem of trying to get that consumer all the way from search to closing.

And so I don't know how to truly measure that today. But I do think it's healthier if there's more competition amongst the major companies and all of the small- and medium-sized brokers working with third party vendors to make those transactions happen.

KATHLEEN PHILIPS: We share your view that competition is a great thing. It's what keeps us on our toes.

JESSICA DRAKE: I'm so glad we can all agree on the benefits of competition.

KATHLEEN PHILIPS: I know, right? We're on each other's sites every day, saying, wait, they did this really cool thing. Why didn't we think of that? And we compete directly for consumers. But even with as large as our companies represented here have become, there are still hundreds, if not thousands, of other places that consumers are shopping for real estate. So none of us think we have it in the bag. And I think that's fantastic because, as I said, it keeps us honest with consumers.

In terms of our ability to influence commissions, we are agnostic in terms of the underlying model of advertising agents on our site. Glenn rightly points out that of course we have an interest in agents earning commissions because we want them to spend money with us. But that's the case with any advertising platform. But we want to provide as much information as we can to consumers, and we are hopeful that as we make agents more efficient, they're serving consumers better and it becomes essentially a virtuous cycle.

GLENN KELMAN: We view it the way Kathleen described. We would prefer that consumers come directly to our site. The question we have is whether the rise of the portals has led to agents spending less money on advertising. We talk about the risible efforts of newspapers to publish listings and classified ads, but were agents spending less money in the era of newspapers than they are today?

For us, we view the portals as a tax that we would rather avoid. Every dollar that we have to pay the portals is a dollar that we have to charge the consumer. And so that doesn't mean that there isn't a place for advertising. There is. But we don't see the FTC or the DOJ promoting the portals as benefiting the consumer and his interest in paying a lower commission. At this point, there are real estate agents paying $5,000, $6,000 a month to meet consumers, and the average agent is making $40,000 a year.

So those agents are probably earning significantly more than that, but I would still say that a significant portion of the commissions paid to real estate agents are then paid to portals. And if there are five of them or 10 of them, you're going to have a very competitive advertising marketplace. If there are only a few, I think you see prices go up. And we very carefully monitor the price to advertise on different sites and we've seen those prices increase significantly.

JESSICA DRAKE: Can you talk to what you see as the trends driving commission changes overall, if you're seeing changes in commissions? I know you've done some looking at this, Glenn.

GLENN KELMAN: The number of brokers offering a low fee—so in Los Angeles, Purplebricks from London has showed up and challenged us on fees. In Denver, it's been TRELORA. In Salt Lake City, I think it's Homie or something like that. What is it? What is it in Salt Lake? I forgot the name of it.

LUKE GLASS: Homie.

GLENN KELMAN: Homie. I keep thinking that can't be it. And it's in Salt Lake City. Can you believe that? How many homies are in Salt—anyway. That's probably why they chose the name. They know better. But our goal is to put 1% on billboards all over town in places like Seattle and to make sure that every consumer knows that you could pay a lower fee if you want.

Now, that's going to be a choice where people will perceive that there's a trade off or not. But we want everyone to know about that choice. So I just think that this is going to be a market that changes slowly because it's an infrequent purchase and all the rest.

But I do see it as reaching a tipping point. For 10 years, we didn't have any price competition and our board asked us every year, why do you charge so little? And the answer was, because I want to. Because that's why I got into this business and it's the only reason I'm going to stay in this business, is to be on the consumer's side. I think we can give people a better deal. And now I actually feel relieved. I can say, because they're doing it and they're doing it and they're doing it. And just, that's never happened before.

And the other experience I'll tell you about is just this meeting we have Fridays at 11. It's Redfin's revenue meaning. Our own agents hated the fees that we charged. They felt that it undervalued the services that they provided. And they campaigned relentlessly in this 11 AM revenue meeting for us to raise fees.

Well, a year or two ago, the mood all changed and we had agents saying, I think we need to lower our fee. I'm getting competition left and right. Other agents are offering consumers the Redfin deal. And I looked around and I said, hell yeah. And so that's why—you don't have to take my word for it. We went from a 1.5% fee to a 1% fee on the listing side because that's where we were being challenged. In all of our major markets now, that's what we charge. And we did it in part because we wanted to, but in part because we had to.

JESSICA DRAKE: So let me ask the others on the panel as well. You've talked about the fact that you're seeing price competition and I think we can agree in this room that price competition is positive and that's one of the things that we weren't seeing when we did our last report, and I'm pleased to hear that you see that happening now. I'm curious whether from the MLS perspective and from the perspective of the portals, there's any role to play to facilitate that price competition to ensure that consumers get the best deal.

LUKE GLASS: From a portal perspective, we actually don't know the commission rates being charged between the buy side and the sell side. We don't get that information from the MLS. So there is actually no way for us today to surface that to consumers, to understand the fees associated with a particular home or a particular transaction. So I think it's probably a question for—maybe for Art and Glenn about that transparency that the industry would want to provide externally to consumers.

GLENN KELMAN: We advertise off-portal so that we can promote our price.

ART CARTER: Basically what Luke is saying is, Art, here's your bus. From the MLS standpoint, we don't track that information either. We may track what the selling office compensation is, but it's not a complete picture of the commission structure that is being paid in a real estate transaction. So from my standpoint, we can track all we want what's being offered on the sell side, but in all honesty, that's market driven. And you're going to see fluctuations in that figure based on whether or not it's a seller's market or a buyer's market.

GLENN KELMAN: That's right.

JESSICA DRAKE: Kathleen, do you see any role for Zillow in facilitating price competition? Do you ever see a future where Zillow is letting agents say, here's the commission I'll charge to represent you in this deal?

KATHLEEN PHILIPS: Similar—well, I shouldn't say similarly. Exactly as with Realtor, we don't have any visibility into that commissions. So could I envision a model where we essentially let agents bid for seller listings, which is what it would be a proxy for doing? Maybe. It's something we haven't really thought about.

We approach this from a slightly different perspective, which is to provide consumers with as much information as we have available to us about the quality of the agents so they can make the choice. And as Luke pointed out earlier, different people choose based upon different things. Some are indifferent to the commission. Some want service more than anything. Some want the same person who sold their neighbor's house. We try to just provide all of that information so consumers can make an informed choice. At the moment, we don't have visibility into the prevailing commission rate for a particular agent, so we can't provide that.

JESSICA DRAKE: So I think that may be something to come back to. I think we have one question from the audience, which I'll let Matt take.

MATT SIEGEL: Yeah, we do. And I guess this is probably for Art. Anyone else might have thoughts on it. But Art, you had mentioned, I think in connection with RESO, that there were something like 300 MLSs that were—I forget what—platinum compliant, or--

ART CARTER: Platinum certified.

MATT SIEGEL: Yeah. And I guess the question is just, what about the other less, or maybe smaller, less technologically sophisticated MLSs, what do you see happening with them in terms of trying to get them more standardized in your activities with RESO?

ART CARTER: So even though they may not be platinum certified, which is the highest level of certification for the data side, actually, for both the data and the API side, even though we're only looking at about 350 that have been certified on the platinum side, we have well north of 650 that have been certified, period. And that means they're meeting some level of standards. And the rolling requirements that multiple listing services are under will get all of those to platinum certification, or as many as we possibly can, by 2020. That's a long time, but in all honesty, most MLSs, especially those of size, are taking themselves to the platinum status prior to those requirements. And those 300 plus MLSs that I talked about are north of 900,000 realtors that they represent, which is a huge majority of the audience from an agent and brokerage standpoint we have in the United States. So yes, there are smaller MLSs that struggle with the standards, and RESO is actively working with each one of those and their vendors to get them up and running as quickly as we possibly can.

MATT SIEGEL: OK. I think we have just about 10 minutes left and that's about time when I wanted to just step in and say, first of all, thanks for a very interesting discussion to all of our panelists. But I wanted to give each of you a chance, just a couple of minutes, to give any closing remarks, thoughts you might have, in particular, informed by what you've heard today from your fellow panelists. Do you want to—maybe we could go from Art down?

ART CARTER: Works for me. First off, I want to thank the Department of Justice and the Federal Trade Commission for allowing me this opportunity to discuss data and its flow from buyer to seller. Ms. Drake, Mr. Siegel, I appreciate all the time and effort in putting all of this together for us today.

I think it's important to note, and I'd especially like to deal and speak for the thousands of brokers and agents that I deal with on a weekly basis, that the importance of the MLS cannot be overstated. It's always been my belief, and I'm sure some in this crowd will disagree with me, that the multiple listing service is the biggest gift that the brokerage community has ever given to the consumer.

And you're going to ask, why do I say that? Our rules and regulations provide a stable and robust marketplace that provides a level playing field for cooperation and competition that ultimately benefits the consumer. The multiple listing service in the United States, though often debated and maligned, is the most successful real estate marketplace in the world and has provided consumers with a reliable method of protecting and transferring their considerable assets held in real estate.

Many others across the world agree with that. Over the past three years alone, my organization has had conversations with government and real estate professionals from Costa Rica, Taiwan, Singapore, Japan, Brazil, Peru, Mexico, Great Britain, and the Ukraine. Most of them want a system such as we have in the United States. It is a system that has been in place for over 100 years, and because of it real estate is conducted differently in the United States than it is conducted anywhere else in the world.

In talking with government officials in Japan, they relate to me upon viewing our marketplace in the United States that consumers in Japan would greatly benefit by real estate companies in their country adopting a system such as ours. Yet I feel that our system is getting better. In the past 10 years alone we have seen greater consolidation of MLSs, and greater standardization of both the data and delivery methods that MLSs utilize through the influence of our brokerage communities and the influence of their consumers. There has been an influx of investment money into the real estate sector that I believe would not have been possible without the stable marketplace that real estate professionals in the United States enjoy.

Multiple listing services in the last 10 years have successfully navigated the technology changes, the consumer demand changes, and new business models that have been thrown our way. It may not be sexy, but what we do, and I stand with other MLS executives across the country, is important and we feel that the future is bright, and the MLS has a very important and a central role to play in making the marketplace work. Thank you for your time today.

LUKE GLASS: I'll be somewhat more brief. I don't have much content. I think, one, there's more access to content today than there has ever been in my 20 years in the industry. There's more consumer choices of websites and mobile apps to view the data than there's ever been in my time in the industry. There's more competition in the brokerage community, as Glenn outlined, than I've ever seen, both on price and service and becoming the buyer of the program.

And finally, there's been more MLS consolidation than I've ever seen in those 20 years, better evolving standards than there's ever been. So from my perspective and from Realtor.com's perspective, the market dynamics are working. The competition between brokers is working. The ability to access data if you want it is working. If you have a value proposition for brokerages and MLSs to access the data, there are multiple ways to get at it, either direct from the MLS, direct from brokers, through a platform like ListHub. And so we generally believe that listings data, emergent technology, and the structures of the real estate market are working fairly well today and it's a robust competitive space.

GLENN KELMAN: I just wanted to thank the FTC and the DOJ. I thought it was an outrage that you made me do four calls for this panel. But I'm here to say now, it was worth it.

JESSICA DRAKE: We are very prepared.

GLENN KELMAN: And I just wanted to thank you for all the work that you do to make sure that every marketplace is competitive. The federal government doesn't get enough love, but we love you.

JESSICA DRAKE: Thank you.

KATHLEEN PHILIPS: Great. Thanks Glenn. Thank you also to the FTC and DOJ, and to Matt and Jessica in particular. Jessica and I have spent a lot of time together over the years, and it's nice to be able to get together for something positive.

It's a super exciting time in the real estate industry. I think it's an unusual treat to get to sit up here with some of my friendly competitors and also with Art, who's a good partner to Zillow, but we should probably do this kind of thing more often.

We're so excited about consumer innovation in this space. And you see that both in the brokerage models that are emerging, in consumer choice models that are emerging, in the wide access to data that consumers have, and we hope to keep it that way. We think it's really important that consumers own this transaction, own the shopping process, and the only way they can do that is if there is data freely available to them.

JESSICA DRAKE: Well, thank you. With that, I think we'll close the panel. Thanks again to our panelists for a very lively discussion. We will take a brief break now, and we'll reconvene at 11:15 for our second panel, which is focused on innovative fee and service models. I'll note, I believe our cafeteria is closed at the moment, but there is coffee and water outside. And just remember that you can't bring you back in here when you're done. Thank you.

MATT SIEGEL: You can bring water back, though.