

Redfin's Public Comment

FTC/DOJ Workshop on Competition in the Real Estate Brokerage Industry

Thank you for the opportunity to participate in the FTC and DOJ's Workshop. Redfin is a technology powered real estate brokerage committed to saving consumers money. Redfin wholeheartedly supports the goals of encouraging competition and lowering the fees consumers pay to buy and sell homes. Redfin operates in 86 markets and 40 states. Over the past five years, we've aggressively lowered the fees we charge our home-selling clients. We've lowered our listing fee to 1% in 35 of our markets.

The Workshop highlighted fierce competition in the real estate industry. This competition is driven, in large part, by the Multiple Listing Services' data aggregation. We discussed this idea in our blogpost: [A Tragedy of the Commons](#). To make sure this competitive environment continues to thrive, it's important that Multiple Listing Services remain the definitive source of listings data. This will require giving agents credit for their listings.

Competition is Fierce

Redfin isn't the only real estate brokerage lowering fees and competing on services. The list of entrants with disruptive business models is long: Trelora, Reali, Fly Homes, Faira, Purplebricks, Homie, Knock, Ribbon, Open Door, Compass, OfferPad, etc.

In 2012, venture capitalists invested \$30 million in real estate technology; according to Pitchbook in 2017, that number was \$1.2 billion. The explosion of innovation is all about lowering costs for the consumer. And the massive increase in funds indicates a broad consensus that the industry is changing. Many of the new entrants to the industry are brokerages competing with Redfin on price, and using Redfin's success as a basis for their fundraising.

This competition is driving down fees. There is significant pressure on real estate agents to give the consumer better service and a better deal. We see it all the time. Consumers are demanding it.

We need the Multiple Listing Services

The real estate industry needs the Multiple Listing Services. The MLSs foster competition by gathering data on all the listings a homebuyer would want to see, and allowing members large and small to display those listings on their websites.

Without the Multiple Listing Services as clearinghouses for all listing data, the real estate market would become much less competitive and efficient. It would be impossible for small or innovative brokerages to aggregate listing data on their own. Listing data would become fragmented, making it tough for homebuyers to know what is available.

The MLS system has allowed Redfin to compete, and it's what is allowing thousands of newcomers to try to beat us. This is the most healthy competitive dynamic you could want.

Crediting the Listing Agent Matters

We should make it easier for a listing agent to get credit on a website. Modernizing the attribution to the listing agent will provide an incentive to post listings immediately, to every website.

If listing agents feel they are not getting credit, or that websites are using their listing to redirect the consumer to another agent, then the listing agent is more likely to withhold the listing or publish it selectively to the place that gives him the best deal. This creates a fragmentation of the data, which isn't good for the consumer, the market or competition.

We submit this comment to let the FTC and DOJ know our point of view. We believe competition is alive and well in the real estate industry. This competition is benefiting consumers. We think the continued success and stability of the industry requires the continued success of the MLSs, as well as incentives for listing agents to continue to contribute their listings.

FROM OUR CEO

A Tragedy of the Commons

Written by

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on December 21, 2017

A Center for Data Innovation study recently argued that Multiple Listing Services and the National Association of Realtors have harmed Redfin's ability to compete. Redfin supports the study's goal, to encourage competition and lower the fees paid by consumers buying and selling homes. So far as we know, we save consumers more money on fees than any other U.S. real estate business, about \$100 million each year. But this study's proposals would hurt, not help, real estate consumers, and the study in no way reflects our views.

Redfin Has Not Been Hindered by the MLS

The study claims it is unnecessarily cumbersome for "Internet brokers such Redfin to be licensed brokers" in every state or to "apply for and maintain membership in every single MLS within these states." Redfin's expansion efforts haven't been hindered in the slightest by MLS licensing requirements because we already require a brokerage license to employ agents and serve customers. We join the local Multiple Listing Service not only to access other agents' listings, but to distribute our own agents' listings to others.

If Websites Can Get Listings Without Sharing In Return, No One Will Share

If we accepted the study's recommendation, and today's MLS participants could access MLS data without contributing our own listings as MLS members, some participants would immediately stop contributing listings. No one would be able to see all the homes for sale. The result would be a tragedy of the commons, where everyone accesses the data but no one contributes to it.

Local Differences Between MLSs are Not Nefarious

To be sure, the study is right that Redfin incurs costs accommodating differences in MLS data about waterfront properties in Seattle, gated communities in Phoenix, or historical registries in Richmond. These differences are cumbersome for brokerages as well as third-party portals, and, as a strong supporter of the Real Estate Standards Organization, Redfin has advocated for standardization where possible. But the local differences that exist today aren't nefarious or anti-competitive.

Third-Party Sites Don't Publish More Data Than Our Brokerage Site

The study also states that brokerage sites have an obligation to publish data to third-party sites because otherwise the consumer will have "less information available about [our] properties." It is important to share data about listings with other websites so more consumers see those listings. But as far as we know, Redfin's brokerage site publishes more data about a home for sale than any other site on the Internet. Sharing listing data with ad-driven portal sites doesn't give the consumer information about a listing that a brokerage site like Redfin.com won't.

The MLSs Are Not Discriminating Against Low-Fee Brokers

We thus find the study's claims about Redfin to be wrong. The authors of this study could have avoided making claims about Redfin that Redfin itself would dispute, just by contacting us beforehand. Our position on the MLS and data syndication is well known: we've stated publicly many times that we're a strong supporter of the Multiple Listing Services' efforts to share listing data among all brokers, especially small brokers who compete aggressively on price.

If There Were Discrimination, We'd Report It

Over the past five years, even as we've aggressively lowered the fees we charge our home-selling clients, we haven't seen the MLS or the NAR in any way limit low-fee brokerages' access to listing data. If we had, we would have immediately reported that MLS or the NAR to the Department of Justice.

Redfin Supports Syndication

We've also supported the Multiple Listing Services' efforts to distribute listing data for free to non-brokerage or portal websites. Any site should be able to publish data about any home while it is for sale, so long as the site gets the permission of the listing agent who captured the data, and then properly credits that listing agent.

The Portal Sites Have Not Been Stymied

But the portals' access to listing data isn't really at issue, nor is the portals' ability to attract an audience. The portal sites themselves have often repeated claims about having a near-monopoly on consumer traffic, with a multiple of traffic over any brokerage site that is much larger than the difference between Google and Bing.

This is why these sites have been able to charge an individual agent more for advertising over time, now sometimes in excess of \$5,000 per month to meet customers. It is hard to see how this trend will lower the prices paid by real estate consumers, or how these remarkably successful sites have been stymied by the MLS, the NAR, or any other entity. Our own experience of the 750+ local MLSs in the country and the national portals who lobby them for data access is that it is the MLSs who feel cowed, by the portals' technical and financial resources, and by the portals' market power.

The Success of the Portal Sites Won't Lower the Fees Paid by Consumers

The whole premise of an antitrust argument is that the MLSs are blocking these portal sites from giving consumers a better price for an agent's services, but unlike in travel or finance, the major portal sites in real estate do not encourage consumers to compare agents' prices. Some of the operators of these sites, which the study has described as "disruptors," are in fact opposed to low-fee brokerages, and have attempted to rally the industry against low-fee brokerages.

The Issues Between Portals and MLSs Aren't Antitrust Issues

The study nonetheless suggests that the Department of Justice's antitrust protections for low-fee brokers should extend to these advertising sites, singling out brokerages that refused, even temporarily, to post their listings to the portals. If the study's authors want to require brokers to post their listings to all third-party websites under any terms, the authors should understand what has been at issue between portals, brokers and MLSs. It isn't simple access to the listings.

The Portals Should Advertise Listings, Not Own Listing Data

The first issue is that the portals have sought to own data about a listing in perpetuity, long after the listing needs to be advertised. It's easy to overlook this concern when imagining, as the authors do, that this data is like an airfare or a checking-account surcharge rather than a picture of a child's bedroom.

But only the broker, and not any of the sites seeking to profit off these pictures, is obligated to protect the interests of the person who hired her to sell the house. We can't think of an industry that has assembled data from every major participant and then conveyed it in its entirety, permanently, irrevocably and with virtually no restrictions, to a third party.

The Marketplace Depends on Crediting the Listing Agent

Perhaps unsurprisingly, the larger issue is around how much credit the listing agent should get for having described, photographed and listed the home, at a cost to the typical listing agent of as much as \$1,000 per listing. Giving such credit isn't just a basic fairness issue. There are also practical reasons that crediting the listing agent is important to an efficient market.

The first is to give listing agents an incentive to share their data, especially now that more real estate agents are withholding listings from MLSs in places like Silicon Valley and Boston. If, as the authors propose, the MLSs were to share listing data across the Internet without requiring the publisher to provide meaningful credit to the listing agent, more listing agents would stop entering their listings in the MLS.

New Competitors Could Never Get Listing Data Without an MLS

And the market needs the MLSs. MLSs foster competition by gathering data on all the listings a homebuyer would want to see, then distributing those listings to sites large and small, including the portals. It is the portals that monopolize any "coming-soon" or "make-me-an-offer" listings posted directly to their site by homeowners or listing agents, all while arguing that every other market participant share its listings via the MLS.

Such hoarding of data will ultimately prompt others to follow suit. Without MLSs as a clearinghouse for all listing data, the real estate market will become much less competitive and efficient, as new websites will find it cost-prohibitive to aggregate listing data on their own.

Consumers Shouldn't Be Required to Hire a Buyer's Agent

The second reason that crediting the listing agent is important is that the home-buying consumer should be able to easily contact the seller's agent. The study authors suggest that making it easy for home-buyers to contact the listing agent directly is a simple matter of self-dealing, as it may help a broker "act as both a buyer's agent and seller's agent for their listed properties."

We understand this argument. As a brokerage, we do not allow the same agent to represent both buyers and seller; we believe that a buyer's agent is almost always needed to protect the buyer's best interests, and is easily worth the fee.

But since buying direct from the seller is already popular in new-construction developments and in strong sellers' markets, we must concede the rights of consumers on each side of a transaction to decide whether to hire an agent. When a potential buyer for a Redfin listing doesn't want to pay for a buyer's agent, Redfin welcomes this as best for our home-selling customer. If antitrust regulators were to thwart such direct sales, Redfin would make more money, but to the detriment of consumers.

Antitrust Rules Should Protect Consumers

Beyond this posting, Redfin does not have the money nor the inclination at this juncture to hire lobbyists or publish policy papers laying out our point of view to state and federal governments. We are, however, happy to talk to any regulators who believe that Redfin, or any other business trying to give real estate consumers a better deal, has been harmed by MLS or NAR policies. We haven't been. We believe the recommendations in this study would benefit only the largest portal sites, not businesses trying to lower fees, not new websites who depend on healthy MLSs to aggregate listings, and certainly not the consumer.

Redfin discussed our ideas with the study's main author, Daniel Castro. He encouraged us to publish this post. He also emailed us after we published the post to thank us for the post, and to ask that we clarify that he was talking about Internet brokers like Redfin, not Redfin specifically, that he was not taking a position on which sites had the most data about a listing, and that he was not opposed to consumers buying homes directly from the listing agent. Thank you Daniel! We updated the post accordingly. To contact Redfin, email press (at) redfin (dot) com.

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