**Comments of**
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**Before the Department of Justice-Federal Trade Commission**
**Public Workshop**
**on**
**Competition Issues**

**June 5, 2018**

The Consumer Federation of America (CFA) appreciates the opportunity to participate in this important workshop. We commend the U.S. Department of Justice and the Federal Trade Commission for organizing the workshop and also, over many years, for addressing issues of competition related to residential real estate brokerage as they affect consumers.[1]

CFA believes it important for these issues to be examined and resolved, most importantly, in terms of the ultimate impact on home sellers and buyers. Of key importance to us are properties being sold at market prices on a timely basis with the efficient assistance by third parties, including traditional real estate agents and brokers. While in general this marketplace has served consumers well, we also believe that it currently lacks sufficient price competition among those third parties and are concerned that emerging trends might inhibit this competition. We also think that more attention should be given to transactional brokerage, where agents act as facilitators rather than fiduciary agents, as one solution to the problems of insufficient price competition as well as those related to agency.

**Most Consumers Are Generally Satisfied With Services Received From Real Estate Agents But Do Not Understand How These Services Are Priced**

In 2007, CFA released the findings of a survey on the views of consumers, including recent home sellers and buyers, of residential real estate brokerage services.[2] AARP

[1] See especially: Federal Trade Commission, The Residential Real Estate and Brokerage Industry: Los Angeles Regional Office Staff Report (1983). Competition in the Real Estate Brokerage Industry: A Report by the Federation Trade Commission and U.S. Department of Justice (April 2007).
[2] Consumer Federation of America/AARP, Consumer Survey of Knowledge and Opinion About Real Estate Services (2007).

helped develop the survey instrument and covered the expenses of the survey. Over two-thirds of all respondents (68%) and nearly three-quarters of those who had recently worked with a broker (73%) viewed agents and brokers, and "their consumer practices," favorably. An even higher percentage of those who had recently utilized their services (84%) viewed their own agent or broker favorably. These data are not inconsistent with survey data collected by National Association or Realtors (NAR). A 2017 NAR survey, for example, found that 85 percent of recent home sellers would definitely or probably recommend the services of their agent.[3]

Survey research, however, has also revealed that most consumers do not fully understand how traditional brokerage services are structured and how consumers can receive best value from these services. For example, many if not most home sellers and buyers have not been aware that real estate commissions are negotiable. That was a finding of the landmark Federal Trade Commission Staff Report of 1983, and it was also the finding of the CFA/AARP survey of 2007. In the latter, fifty-eight percent of recent home buyers and sellers thought that commissions were set by the industry or agents, or by state law. In their 2017 Survey of Home Buyers and Sellers, NAR asked buyers and sellers how "the agent was compensated" and received a variety of answers. A very small percentage opted for both buyer and seller, which would be the correct answer to a question that did not provide the option, paid by seller's agent.

**Consumers Are Charged Relatively High and Uniform Commission Rates**

Whether or not consumers understand that they can negotiate these rates, these commission rates are still relatively high and uniform. According to Real Trends, the most relied on source for commission rates, the average rate nationally, at 5.12 percent, was the same in 2017 as it was in 2001. Yet dollar commissions increased substantially because housing prices were much higher.[4] For a typical home sold in the first quarter of 2018 (median of $328,000), a 5.12 percent rate generated a commission of nearly $17,000[5]. For somewhat more expensive homes, $30,000 to $40,000 commissions represent the cost of many new car models, or a hip or knee replacement at many hospitals.

Many researchers have noted that the cost of residential brokerage services is lower in most other developed countries, sometimes much lower. According to Which?, the Consumer Reports of the UK, high-street estate agents were paid an average of 1.3 percent, and rarely more than 3.5 percent, for selling a home.[6] According to a Wall Street Journal listing of 32 countries, 2015 commission rates were between one and two percent not only in the UK but also in Finland, Sweden, Norway, Netherlands, and Australia.[7] Other sources sometimes list higher commission rates for these countries, but they are

[3] 2017 NAR Survey of Home Buyers and Sellers.
[4] For example, between 2001 and 2017, the average price of new homes in current dollars sold rose from $213,200 to $384,900, according to U.S. Census Bureau statistics.
[5] Median sale price reported by the Federal Reserve Bank of St. Louis based on U.S. Census Statistics.
[6] Reena Sewraz, "The Cost of Selling a Home," Which? (April 2018).
[7] "Real Estate Commissions Around the World," Wall Street Journal online article.

well below 5 percent. A principle reason for these lower rates is that in these countries, there is usually only one agent (usually called an "estate agent") involved in the sale.

Research has also shown that commission rates are fairly uniform. This uniformity was emphasized in the 1983 FTC Report and it also was reported by recent research. A paper by a fellow panelist and her colleagues, in a study of more than 650,000 residential listings in East Massachusetts from 1998-2011, revealed "uniformity in real estate commissions rates across markets and time."[8]

One implication of fairly uniform rates is that there is little or no relationship between commission level and service quality. Skilled, experienced agents and brokers charge about the same price as agents with little experience and limited knowledge of how to best serve their consumer clients. In a price-competitive market, less experienced and less skilled agents would be offering consumers lower commission rates, but we know of no compelling evidence that they are doing so.

**Why Commission Rates Are Relatively High and Uniform**

There are a number of factors that help explain why commission rates are relatively high and uniform. Some are related to the situation of consumers while others are related to characteristics of the industry.

**Consumer-Related:** Several factors relate to the knowledge and psychology of home sellers and buyers. A home is usually by far the most expensive purchase consumers will make. At the outset, they are likely to be far more concerned about the timing of the sale and the sale price than about a commission that is much less expensive. That is especially true for the significant minority of consumers who are selling and purchasing at the same time.

Because consumers purchase and sell homes so infrequently, they have no or little experience to draw from in understanding the real estate transaction. Moreover, this transaction appears to many to be fairly complicated. Both sellers and buyers, whose financial interests usually diverge, must deal with each other and also with all of the paperwork involved in the sale. In addition, sellers must make certain they accurately report on the characteristics of their home, including the disclosure of certain defects and hazards required by state law. And, buyers usually need to visit properties and to arrange financing, title inspections, and home inspections.

Consumer lack of knowledge of a relatively complicated transaction that involves substantial costs predisposes most home sellers and buyers to rely heavily on real estate agents. Data show that the proportion of consumers who sell their own homes (FSBOs) has declined in the past couple decades to less than 10 percent. Data also show that a large majority of sellers and buyers utilize the services of real estate agents. According to

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[8] Panle Jian Barwick et al., "Conflicts of Interest and the Realtor Commission Puzzle," NBER Working Paper (August 2015). Total commission rate levels – between four and five percent, were below national rate levels, possibly reflecting relatively high housing prices in Massachusetts that encouraged consumer price negotiation.

the 2017 NAR survey, 89 percent of home sellers and 87 percent of buyers worked with an agent.[9]

**Industry-Related:** The relatively high and uniform commission rates also are related to characteristics of the industry. According to the Association of State Real Estate Commissions (ARELLO), there are about two million active real estate licensees.[10] Recently, there have also been only between five and six million home sales annually. So there could be no more than 10-12 million sides in sales – opportunities for an agent to represent a seller or a buyer – and some sales involve just a single agent. That averages to no more than 5-6 sales per agent, which helps explain why the median income of Realtors surveyed by NAR, who tend to be more successful than non-Realtor agents, reported a median income of only $42,500.[11] From that gross income, agents must pay out-of-pocket expenses such as licensing, NAR membership, transportation, and marketing that average $5,000.[12]

This glut of agents reflects several factors, which include the relatively low entrance barriers compared to those of most service professions, the lure of large commissions for single sales, and the ability to practice part-time. But this glut also creates huge agent and broker pressure to maintain relatively high and uniform commission levels. Agents and their brokers who participated in 20 sales a year averaging $300,000 per sale would see their income drop by $30,000 if their average commission split fell from 2.5 percent to 2.0 percent.

This agent and broker incentive to maintain commission levels is reinforced by a selling process that can discriminate, often in very subtle ways, against non-traditional agents that seek to compete on price. Sales involving traditional brokers, a large majority of all sales, typically require the seller to agree on a commission that is then shared with buyer agents. If listing agents post a relatively low commission split for buyer agents on their local Multiple Listing Service (MLS), the latter may steer clients away from these properties. The commission splits are disclosed on the MLS to all agents and brokers but not to home buyers, so it is practically impossible for buyers to learn if agents are steering them to properties with higher splits.[13]

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[9] 2017 NAR Profile of Home Buyers and Sellers.
[10] Reported by "Quick Real Estate Statistics" on NAR website (May 11, 2018).
[11] 2017 NAR Member Profile.
[12] "Top Real Estate Expenses," Real Estate Express (December 14, 2017).
[13] This coupling of listing and buyer agent commissions, and its deleterious effects of price competition, have been widely discussed by academic researchers. See Panle Jian Barwick, loc. cit. See also: FTC-DOJ, Competition in the Real Estate Brokerage Industry, loc. cit. Lawrence J. White, "The Residential Real Estate Brokerage Industry: What Would More Vigorous Competition Look Like," New York University Center for Law and Economics (April 2006). Jason Beck et al., "Competition and Market Structure in Local Real Estate Markets" (posted online December 2010). Norman W. Hawker, "Overview of AAI's Real Estate Competition Project: Highlights from the Existing Literature on Broker Competition," Real Estate Law Journal, v. 35, n. 69 (2006).

It is thus no surprise that traditional agents and brokers do not seek to provide information, let alone publicize, their commission levels. These agents and brokers do not advertise these rates. And rarely do they even place this information on their websites. In the 1990s, CFA called several hundred brokers to inquire about prices. In most instances, their offices responded that rates were negotiable and refused to specify a specific commission level. After our persistent questioning, most admitted that levels were typically either six or seven percent, depending on the area where they practiced.[14] My guess is that today, broker offices would be only slightly less reluctant to provide rate information.

**Lack of Competition From Nontraditional Brokers:** For several decades, some agents and other service providers have sought to compete with traditional agents on price and service. In the 1990s, exclusive buyer brokers tried to make inroads into the traditional industry. This was a time when consumer advocates and press had just "exposed" subagency, which required "cooperating" buyer agents as well as seller agents to represent the financial interests of sellers. But these buyer brokers ran into stiff resistance from traditional brokers. This resistance included the use of anti-rebate statutes existing in many states, but more frequently it took the form of traditional broker reluctance to cooperate with buyer brokers who were seeking to negotiate much lower home sale prices. By this century, most of these exclusive buyer brokers concluded that they could not survive without also listing properties and accepting proffered commission splits.[15] According to the U.S. Department of Justice website, ten states currently have laws with a full ban on broker rebates to home buyers. Minimum service laws, which require agents to provide a full range of brokerage services, were also used to limit the activity of competitors such as Internet-based companies. According to DOJ, twelve states and the District of Columbia currently have these laws.

Recently, much has been written and said about a new group of nontraditional brokers and related service providers who, having gained access to Multiple Listing Services in part through the antitrust efforts of the FTC and DOJ, attempt to discount or offer unbundled services. The most prominent of these companies has been Redfin, which was founded in Seattle in 2004 to use the Internet to streamline homebuying and reduce commissions. Over time, Redfin felt compelled to offer more personalized service and rebate less of commissions. Yet, the 2018 Swanepoel Trends Report projected fewer than 30,000 sides (participation in a home sales) for Redfin in 2017. In their own home base, Seattle, the company was part of fewer than three percent of home sales.[16]

All other discount brokerages featured by the Trends Report were projected to participate in far fewer 2017 sales, several less than 100. The experience of one discount broker, Glass House Real Estate, illustrates the challenge nontraditional brokers face. Launched

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[14] Stephen and Susan Brobeck, "Real Estate Agents and Home Sales: An Evaluation," Consumer Federation of America (October 1991).

[15] See Patrick Woodall and Stephen Brobeck, "Nontraditional Real Estate Brokers: Growth and Challenges," Consumer Federation of America (December 2006). See also FTC-DOJ, Competition in the Real Estate Brokerage Industry, loc. cit.

[16] Sanjay Bhatt, "Redfin's Bid to Overthrow Traditional Brokers Still a House-to-House Battle," Seattle Times (May 18, 2015)

in 2010, as indicated on its website, Glass House sales grew from two in this year to 115 in 2015, but then declined to 17 in 2017, and in 2018 to date, stand at only four.

In the future, these discount brokers may build significant market share. The Internet has made available tools that can increase efficiencies in the buying and selling process. And the FTC and DOJ have helped ensure that non-traditional agents, as well as other service providers, have access to local Multiple Listing Services. Yet, the only really successful innovators to date have been the real estate portals, which aggregate real estate listings and use these listings to sell related services. These services, especially the largest Zillow, are already shaking up traditional brokerage services. Whether these portals, however, also develop in ways that provide improved brokerage services to consumers at lower prices remains an open question.

**Lack of Information About Agent Quality of Service:** The most important source of information about agent quality of service is the experience of other consumers. Annual NAR surveys of recent sellers and buyers show that over the past decade, more than three-fifths of sellers (64 percent in 2017) and more than half of buyers (54 percent in 2017) used an agent referred by a friend, neighbor, or relative or one with whom they previously worked. For sellers no other source exceeded four percent, and for buyers no other source exceeded 10 percent, which was the percentage who indicated a website.

A recommendation from someone one knows has some value for consumers if it reflects accurate comments about the experience others have had with specific agents. Given the glut of agents and their competition for clients, we believe that these recommendations serve an important role in helping ensure that agents adequately represent consumers. However, the recommendations cannot represent an adequate measure of service quality provided by a large number of agents. And given the limited knowledge of many consumers about brokerage services, even positive experiences with individual agents may not accurately reflect good service quality. While Angie's List, Yelp, Zillow, and other sources provide some information on agent quality, this information is usually limited and/or biased.[17]

## Will Zillow and Other Real Estate Portals Serve the Interests of Consumers?

The DOJ/FTC Consent Decree facilitated the development of real estate portals that gave them access to listings from local Multiple Listing Services, which they then aggregated, sold advertising to agents, and made available to consumers. Their two key metrics were how often consumers visited their website and how much advertising revenue they generated from agents. Up until 2015, Zillow, Realtor.com, and Trulia dominated this space. Since the merger of Trulia into Zillow in that year, the latter has greatly outpaced Realtor.com not only in consumer visits and agent advertising, but also in expanding

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[17] Angie's List charges an annual membership fee of $50 and does not include information on agent history. The latter is true of Yelp, which in the past has included planted assessments. Zillow agent evaluations, as explained in the next section, reflect agent willingness to pay Zillow fees more than actual service quality. See also: Chuck Harris, "Finding Top Real Estate Agents," referz (January 2, 2017).

related services.[18] A typical Zillow home listing includes not only extensive information about the property, but also a list of Premier Agents with customer reviews and an 0.0-5.0 rating. These agents pay fees that depend on the number of buyer leads generated. Whenever a consumer requests more information about the listing, the agents receive contact information about that consumer. If the consumer provides a phone number, they are usually quickly called by the agents.[19]

Zillow and other real estate portals have benefited consumers by giving them free and easy access to information about a broad range of homes and rentals. Home buyers and sellers have increasingly accessed this information. A recent survey of recent home buyers and sellers learned that 42 percent of buyers began their home search by looking online, compared to only 17 percent that started their search by contacting an agent. Moreover, 88 percent of recent buyers considered online websites to be their most useful source of information.[20]

Zillow has also benefitted consumers by being willing to list FSBOs and by making available free Zestimates of the value of most homes in the country. However, they also provide misleading information about the agents who purchase advertising. The name, "Premier Agents," is itself misleading in that the only way the agents are "premier" is that they have paid Zillow. Moreover, the customer reviews include only positive comments, which strongly suggests that they have been carefully selected by the agents themselves. And the 0-5 ratings border on the fraudulent. Our survey of a couple hundred Premier Agents revealed that the large majority had received 5.0 ratings, with only a few being rated at 4.9 or 4.8, and none below this level. A number of agents with only one "recent sale" received a 5 rating. Prospective buyers are aggressively marketed by listed Premier Agents whose defining characteristic is not that they provide good value to buyers but that they have paid Zillow for leads.

Furthermore, the business model of Zillow and other major portals can retard price competition. Serious use of these portals requires agents to pay thousands and often tens of thousands of dollars in fees annually. Zillow alone collects nearly $1 billion in these fees, which drive up marketing costs and discourage participating agents from ever reducing commission levels.[21] The low-fee deal Zillow has cut with Realogy, the world's largest real estate agency, may also retard price competition.

Recently, Zillow announced that they were entering the brokerage business by buying and selling homes through Instant Offers.[22] These homes represent guaranteed leads that can be sold to local agents.[23] Other lead generators like HomeLight typically charge

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[18] A Google search of "homes for sale in" each of a dozen cities revealed that Zillow, Trulia, and Realtor.com websites were almost always the first three listings.
[19] See Zillow website. Also: Emile L'Eplattenier, "How Zillow Premier Agent Works – Are Zillow Leads Worth Paying For?" FitSmallBusiness (January 18, 2018).
[20] NAR, 2017 Profile of Home Buyers and Sellers.
[21] Gary Lucido, "How Zillow and Realtor.com Keep Real Estate Commissions High," ChicagoBlog (October 19, 2017).
[22] Opendoor pioneered this type of service.
[23] Paul R. La Monica, "Flip This House!" CNN Money (April 13, 2018).

agents a 20-25 percent commission. One would think that participating local agents, faced with this expense, would have little incentive to lower commission rates. If anything, having to pay for lead generation, might they seek a higher commission rate?

Some agents and brokers fear that the largest portals, Zillow in particular, aspire not only to sell advertising to agents but also to introduce or greatly expand nascent brokerage services. They fear that, eventually, these portals will aggressively solicit listings, match these listings up with buyers, and only utililize agents when clients need personal assistance with services such as home preparation, home visits, and closings. Particularly if the portals could inexpensively acquire many listings and identify potential buyers, then service both sellers and buyers as facilitators ("transactional brokers"), these companies would have the potential to greatly reduce industry costs, allowing significantly lower prices to consumers. However, it is not clear to us that these cost savings would in fact be shared with home sellers and buyers. As oligopolists, the portals would have the opportunity to provide low-cost services yet also collect substantial rents.

If portals were to provide brokerage services to both seller and buyer in a home sale, they would feel some pressure to act as facilitators ("transactional brokers"), not as agent fiduciaries. This raises the complex and controversial question as to whether this transactional service would benefit consumers.

**Should More Agents and Brokers Work As Facilitators, Not Fiduciaries?**

The nature and structure of the residential real estate brokerage industry makes it difficult for agents to effectively discharge fiduciary duties. One thinks of a fiduciary engaging in a hard-boiled negotiation to attain the highest home sale price for the seller or the lowest price for a buyer. This agent would never disclose to a buying agent the lowest price their seller would accept or to a listing agent the highest price the buyer would pay.

However, price is not the only concern of agents and consumers. Both usually place a very high value on timing – a relatively quick sale. To achieve a timely sale, there is an incentive for the listing and buying agents to privately discuss what price their clients are prepared to accept and work to resolve other potential conflicts. In this capacity, however, they are functioning more as facilitators than as fiduciaries.

The brokerage industry has always been aware of its conflicting roles. In the 1980s, after the FTC Staff Report uncovered the many conflicts and consumer ignorance of these conflicts, the NAR decided to try to reduce them. It could have moved in one or two directions – toward pure "transactional brokerage" where agents serve only as facilitators, as is common in countries with low brokerage commissions, or toward pure fiduciary agency. They chose the latter. The NAR's Bill North was the chief architect of a "subagency system" where all brokers involved in home purchases served as fiduciaries of sellers. This system helped maximize commission income both because it helped ensure that there would be two brokers involved in every home sales and because it is easier for a fiduciary than a facilitator to charge a higher commission.

As North explained to me in the early 1990s, this system created a more orderly industry. I agreed but also argued that subagency greatly disadvantaged buyers. The 1983 FTC

Staff Report had already criticized subagency. When CFA, other advocates, and journalists started "exposing" subagency in the early 1990s, the system quickly began to crumble. Since then, states have passed legislation establishing diverse rules in relation to fiduciary agency and transactional brokerage. Some of these laws – for example, those permitting "dual agency" – are not defensible. How can one agent discharge fiduciary duties to both seller and buyer? To try to resolve these issues, several states have made transactional brokerage the default option and, in the case of Florida, not even requiring its disclosure. While all states require certain disclosures to sellers and buyers, it has been argued in a Harvard Journal of Legislation article, that these disclosures are unlikely to work effectively.[24] Among other factors, the disclosures are too diverse and too complicated for consumers to understand. Moreover, there is strong evidence that disclosures are not presented in a timely way. A NAR survey of home buyers and sellers revealed that only 30 percent of buyers in 2005 received disclosures from agents at their first meeting.[25]

One would think that most home sellers and buyers would be hugely concerned about this issue, but they appear not to be. Consumers rarely complain about or litigate the issue, typically filing few than 100 related lawsuits annually. This lack of concern is partly because they do not understand what is going on. To them agency issues are a black box. But it is also because consumers are mainly concerned about a quick home sale at a reasonable price, and agents also usually benefit from a rapid sale. As a result, we hypothesize that many if not most agents have always functioned in part as facilitators. That was the case even under the subagency system when cooperating brokers with a conscience "broke the law" by not revealing to sellers compromising information about buyer price limits. Since then, most of very diverse state laws have allowed agents enough latitude to practice a combination of fiduciary and transactional brokerage in the same sale, or when they are the sole agent, to act mainly as a facilitator. In recent years, the greatly increased information about homes for sale and their asking prices has reduced the risk of agents allowing buyers to substantially overpay for a property.

It would be useful, however, if the issue of transactional brokerage received greater attention. It would be useful for someone to study its actual practice, not just its practice reported by agents and brokers. A key question to ask is, are agents currently acting more as a facilitator rather than as a fiduciary? If it is as a facilitator, then that increases the viability of "double-dipping," one agent working with both buyer and seller. At present, listing agents acting as fiduciaries face conflicts if they also wish to work directly with buyers.[26]

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[24] Ann Morales Olazabal, "Redefining Realtor Relationships and Responsibilities: The Failure of State Regulatory Responses," Harvard Journal of Legislation, v. 40 (2003).
[25] Ken Harney, "Agents Falling Short on Disclosure," Washington Post (March 18, 2006).
[26] This issue has been widely discussed in previously cited literature. See also: Matt Carter, "Legal Pitfalls of Agency Representation for Real Estate Professionals," Inman (May 16, 2018). J'Noel Gardner et al., "The Impact of Dual Agency," Journal of Real Estate Finance and Economics, v. 35, n. 1 (February 2007).

The emergence of a group of facilitator agents within the industry could increase price competition. If fiduciary agents now receive 2.5-3.0 percent commissions, one could see facilitators receiving only 2.0 percent, and perhaps 3.0 percent if they were the sole agent in a sale. That would bring agent compensation more in line with that in many other developed countries.

Especially when dealing with transaction brokers, sellers and buyers need consumer protections. Agents and brokers should be required, for example, to present offers and counteroffers in a timely way, account for all money and property in a timely fashion, ensure that required state disclosures about the condition of the property are implemented, and that information received from a seller or buyer confidentially is not communicated to the other party. States including Oklahoma specify these duties of transactional agents, though the duties should be required of all other agents as well.[27]

**Evaluation and Recommendations**

CFA believes that residential real estate industry policies and practices, and related public policies, should be evaluated in terms of whether they maximize value for home sellers and buyers. There are three especially important components of this value:

- Availability to buyers of detailed and accurate information, including any material defects, about properties for sale.
- Consumers being able to sell and purchase these properties in a timely way for prices that approximate those determined by a competitive marketplace.
- Consumers paying fair, competitive prices for effective brokerage services received in the sale and purchase of these properties.

In regard to whether the current residential real estate marketplace provides good value to consumers, CFA believes that:

- Information about the availability and characteristics of properties for sale is good, in part because of FTC and DOJ antitrust interventions and also because of required state disclosures of property defects.
- In general, consumers are able to sell and purchase properties in a timely way for prices that, because listing prices are widely available online, usually approximate those of a competitive marketplace.
- Most consumers pay prices for brokerage services that are inflated by lack of effective price competition in large measure because buyer broker compensation is usually coupled to that of listing brokers and because a glut of agents inflates acquisition costs and creates social pressure among agents to maintain high commission levels.

CFA recommends that the FTC and DOJ continue to actively monitor and take appropriate steps to ensure effective price competition in residential brokerage markets, particularly by:

- Continuing to seek the elimination of state anti-rebate and minimum service laws that limit the ability of nontraditional agents to offer lower prices. These

[27] See Olazabal loc. cit. for a discussion of this issue.

laws not only restrict price competition in these states but may well encourage informal discrimination against rebaters in other states.

- Modernizing and extending the Consent Decree. NAR has said they have no plans to alter MLS policies mandating how listings of online brokerage are displayed. We are concerned that their plans, at some point, may change.
- Investigating ways that buyer broker compensation could be decoupled from that of listing brokers. In countries with much lower commission rates, there is no common coupling of this compensation.
- Investigating proposals for more effective price disclosures to consumers, including: Disclosures given to individual sellers and buyers in dollars as well as percentages. Price disclosures on broker websites similar to the list prices on new cars that can be negotiated down. Elimination of the MLS rule that prohibits display of commission splits to agents working with buyers. The fact that all brokers and agents but no consumers or third parties can easily learn about these splits, permits agent steering to the highest splits and contributes to buyer ignorance about agent compensation allowing relatively high commission levels.
- Investigating the role of agency in restricting price competition, including any widespread use of transactional brokerage when consumers believe they are receiving fiduciary services. On the one hand, consumers should know whether their agent is truly acting as a fiduciary or facilitator. On the other, agents offering transaction brokerage services, especially to sellers, would be freed from dual agency problems, especially when they were the sole agent in a transaction.
- Closely monitoring large real estate portals, especially the accuracy of the information they provide to buyers and also any anti-competitive practices. These portals have largely benefited consumers to date, but there is also evidence that they are now including misleading information about agents and, because of agent fees that can be substantial and drive up acquisition costs, encourage high commission levels.