

Testimony of

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Before the
United States House of Representatives
Housing and Community Opportunity Subcommittee of the
House Financial Services Committee

Prepared for Hearing on

The Changing Real Estate Market

July 25, 2006

Good afternoon, Chairman Ney, Ranking Member Waters, and members of the Subcommittee, my name is Kimberly Gorsuch-Bradbury, and I am Senior Vice President, Real Estate Networks, of LendingTree. We at LendingTree appreciate this opportunity to share our views on the changing real estate market.

In this testimony I would like to first describe our company and then highlight several opportunities and challenges related to providing consumers with choice and competition in purchasing real estate brokerage services.

LendingTree was founded in the late 1990's on the idea of empowering both consumers and lenders. We built a system that harnesses the power of the Internet to give consumers access to a network of lenders, which promotes competition among the lenders to the benefit of the consumer. A borrower looking for a loan can come to our website, fill out one simple form, and get up to four offers, nearly instantaneously, which puts the consumer in a terrific position to compare, shop and negotiate. The exchange that we created provides a valuable service in matching consumers with lenders, so that each party benefits. As of today, our lending exchange has facilitated more than 18 million consumer loan requests and has enabled more than \$140 billion in consumer loans.

In 2000, we began to apply a similar approach to real estate brokerage services. Just as we did in lending, we built a system that gives consumers access to a network of real estate brokers, which allows them to comparison shop. This unit now operates under the name RealEstate.com.

At RealEstate.com, we offer choice and competition in the service of consumers. RealEstate.com offers consumers valuable services such as access to home valuation information, home listings, photographs of homes for sale, information about home buying and selling and more. When a consumer is ready to engage a local real estate broker, we connect the consumer with a local broker from our network. When these customers are connected with the local broker, they are more knowledgeable and are more realistic about the type of home they can afford. This is a very efficient method of operating, and RealEstate.com and its partners pass a significant portion of the savings to our customers in the form of valuable rebates. We are proud of the fact that our real estate businesses have provided consumers nearly \$60 million in savings since their inception. This type of real estate exchange is also beneficial for brokers on our network, as evidenced by the fact that in a recent survey of our broker network, 84 percent of respondents rated us as a trusted partner, and 79 percent reported that they expect their business to grow over the next twelve months as a result of their relationship with RealEstate.com.

Key Challenges and Opportunities

There are numerous changes underway in the real estate brokerage industry, in part spurred by the advent of the Internet. Services such as RealEstate.com have tremendous potential for creating new business models in the real estate brokerage industry. Based

on a survey conducted by the National Association of Realtors®, 79 percent of buyers – and 82 percent of *first-time* homebuyers - used the Internet to search for their home last year.¹ In the same study, the NAR reported that 24 percent of buyers found their home on the Internet, which was twelve times greater than the percentage that found their home online in 1997.² Thus, the Internet empowers consumers to search for homes in a very speedy and cost-efficient manner.

Sellers of properties can benefit from efficiencies afforded by the Internet as well. Sellers can enjoy the increased exposure of their home on sites like RealEstate.com and other sites that display homes available for sale, and sellers can find valuable information about pricing their home using online resources.³

These new technologies can also be beneficial to brokers. Based on the NAR survey, 21 percent of buyers found an agent to assist in the search or purchase of a home as a result of their Internet search,⁴ and 64 percent of homebuyers searching for a home on the Internet found that “real estate agent contact” was either a somewhat useful or very useful feature of the websites they were viewing.⁵ Therefore, the Internet can be a tool for brokers, and especially smaller brokers, to find customers that they otherwise would be unlikely to reach.

We believe that new online technology and business methods are poised to improve the real estate brokerage business. Better information leads to higher quality markets, which is good for brokers, agents and consumers. My experience is that real estate brokers are great innovators, and brokers were the early adopters of the Internet. RE/MAX International, Inc., for example, and Realtor.com have built robust national websites, and real estate websites can provide consumers with rich online mapping, local neighborhood information, photographs and “360 degree home tours.”

Although emerging technology is creating efficiencies in the process of buying and selling a home, some have concluded that these efficiencies are not being fully realized. The Committee is well aware of this fact. The August 2005 Report of the Government Accountability Office,⁶ requested by Committee Chairman Oxley and Ranking Member Frank, discusses the unrealized efficiencies and savings made possible by the Internet.

I do not intend to repeat all of the observations of the GAO, but there are two issues LendingTree has encountered that I would like to discuss before this Subcommittee. First, many states require brokers to provide, and charge for, a full range of services to consumers, rather than allow consumers to choose what services they actually need. Second, a number of states prevent brokers from rebating any savings to consumers.

¹ 2005 National Association of Realtors® Profile of Home Buyers and Sellers (the “NAR 2005 Profile”).

² NAR 2005 Profile.

³ United States Government Accountability Office, Report to the Committee on Financial Services, House of Representatives, “Real Estate Brokerage: Factors That May Affect Price Competition” (the “GAO Report”).

⁴ NAR 2005 Profile.

⁵ NAR 2005 Profile.

⁶ The GAO Report.

Both of these measures harm consumers by preventing choice and competition. Let me talk to these issues in turn.

Required Bundling of Services

We at LendingTree believe that today's customer is extremely savvy and comfortable making his or her own decision. While consumers are typically happy with their real estate agent, as evidenced by the fact that 66 percent of sellers and 63 percent of buyers reported that they would definitely use their agent again or recommend their agent to others, only 7 percent of sellers reported that they wanted the agent to help with paperwork, inspections and preparing for settlement, and only 10 percent of buyers reported that they wanted help with price negotiations and paperwork.⁷

We believe that our consumers expect to be able to choose the particular real estate brokerage services they want and need. Many home sellers, for example, might want to purchase only listing services, a yard sign, and maybe one open house from the broker. The seller might opt to perform other sales functions him or herself. Similarly, because 24 percent of home buyers found their home online,⁸ they may not need assistance in locating a home, but they may need assistance navigating the home purchase process. This conclusion is supported by the findings that 59 percent of all buyers, and 74 percent of first-time buyers, reported that their real estate agent helped them to understand the process – making this the highest ranked benefit provided by real estate agents to buyers.⁹

However, at least ten states now require real estate brokers to provide a pre-determined bundle of services to their clients.¹⁰ These new measures prohibit consumers from choosing only the real estate brokerage services they want. If the consumer engages a real estate professional, then the consumer is required to accept, and pay for, an entire bundle of services. Obviously this impedes consumer choice and prevents lower-cost alternatives.

We share the concerns of the AEI-Brookings Joint Center for Regulatory Affairs on this subject. Let me quote:

The argument for maintaining service requirements as a condition for having a license is not persuasive. Licensing exists to ensure a standard of service quality in a given profession, but there is no reason to believe that agents who offer more narrowly tailored services and charge accordingly will do any worse of a job or harm consumers in any way.... In general, consumers can be expected to be willing to pay for different types of services and level of service quality. Some may want an entire bundle that

⁷ *NAR 2005 Profile.*

⁸ *NAR 2005 Profile.*

⁹ *NAR 2005 Profile.*

¹⁰ These states include Alabama, Delaware, Florida, Illinois, Iowa, Michigan, Missouri, Oklahoma, Texas and Utah.

is of very high quality while others may want the bare minimum.... It is true that the full service brokerage bundle has prevailed in the market for many years, but it appears to us that more individualized services have become increasingly popular in the wake of soaring housing prices and the emergence of the Internet. Whether or not a la carte-style real estate will catch on more widely remains to be seen, but there is no rationale for preemptively impeding such competition other than to protect the interests of those who feel threatened by it.¹¹

In short, we at LendingTree believe in empowering our consumers to choose the services they want and need, and we do not believe state laws should require all consumers to pay for a full range of real estate brokerage services even though some consumers may want something less.

The Laws of Some States Prohibit Rebates

Another significant challenge to innovation comes from state laws that prohibit rebates to consumers in real estate transactions. Eleven states¹² prohibit or limit a real estate broker from passing-on savings in the form of a rebate.

In this regard, in 2005, the U.S. Department of Justice brought suit against the Kentucky Real Estate Commission, which by regulation had banned brokers from passing-on savings to consumers in the form of rebates. In bringing the suit, the Department of Justice asserted that the Kentucky regulation “enabled Brokers to raise, fix, peg, or stabilize the prices and rates at which Brokers are compensated” and that it made it “more difficult for consumers of real estate brokerage services to obtain lower prices for these services.”¹³ The Kentucky Real Estate Commission ultimately lifted the ban on consumer rebates and Kentucky consumers are now able to enjoy these savings in the form of rebates.

Yet consumers in other states are still prohibited from enjoying these savings. New Jersey, which has been one of the hottest real estate markets of late, is one such state. Let me give an example of the cost to consumers. Last year, there were approximately 160,000 sales of existing homes in New Jersey, and the average sales price of these homes was approximately \$365,000.¹⁴ At that sales price, consumers using our service could have each received a rebate of \$1,250. Therefore, the potential savings to New Jersey consumers is enormous, nearly \$200 million last year alone. Yet the State of New Jersey prohibits such consumer benefits.

¹¹ *Bringing More Competition to Real Estate Brokerage*, R. Hahn, R. Litan & J. Gurman, AEI-Brookings Joint Center for Regulatory Studies (Nov. 2005).

¹² The following states prohibit rebates altogether: Alaska, Iowa, Kansas, Louisiana, Mississippi, Missouri, New Jersey and Oklahoma. In addition, Alabama, Oregon and Tennessee place limits on rebates by requiring that they only be given at closing.

¹³ *Complaint, United States of America v. Kentucky Real Estate Commission, Civil Action No., 3:05CV188-H, filed March 31, 2005.*

¹⁴ *New Jersey Home Sales Report, New Jersey Association of Realtors®, Fourth Quarter 2005, Prepared by National Association of Realtors® (the “New Jersey Home Sales Report”).*

We at LendingTree see little legitimate justification for a prohibition on rebates. The vast majority of states allow rebates in real estate transactions, and we are not aware of any adverse consumer consequences from providing rebates. Instead, our customers confirm overwhelmingly that they want the ability to receive rebates in real estate transactions.

Conclusion

We agree with Chairman Oxley in his statement to the Committee last year, when he said:

Let's forget about fighting among the various lobbyists and remember what's really important, and that is how can buyers and sellers get the best real estate services at the lowest possible prices? Competition is always the answer to that basic question, choice is always the answer to that basic question. There is not enough competition in these real estate markets, and that is what we seek to remedy.¹⁵

Thank you for the privilege of testifying today, and I will be happy to answer any questions you may have.

¹⁵ Opening Statement, Chairman Michael G. Oxley, Committee on Financial Services, June 15, 2005, "*Protecting Consumers and Promoting Competition in Real Estate Services.*"