

Feds Get Involved in Real Estate Transformation

RISMEDIA, May 11, 2007- According to the latest Swanepoel Trends Report the industry has never before experienced as many new business models and competition as it has during the last couple of years as well as growing government interest in the industry.

It seems that the Federal Government doesn't feel that the industry is doing enough and that real estate brokers and state regulators and legislators have impeded competition. Hence, in a new report by the U.S. Federal Trade Commission (FTC) and U.S. Department of Justice (DOJ), it has decided to participate in the transformation of the industry by deciding that certain existing laws, rules and regulations need to be repealed.

Although the FTC acknowledges that real estate industry has undergone a number of substantial changes in recent years it also states that competition has been hindered as a result of actions taken by some real estate brokers acting through MLSs and the National Association of Realtors and state legislatures and real estate commissions. The report points to various areas in which the diversity and power of these new models are already reshaping the way real estate is conducted.

According to the report it's all about the consumer, of course, and making sure that their choices are not limited. The Feds especially want regulators to pursue a detailed study of commission rate and fee practices to better measure price competition in the industry. Their feeling is that as commission fees "do not vary in proportion to changing home prices," they are considered to be "relatively inflexible" and therefore have in real terms become too high.

FTC chairwoman Deborah Platt Majoras said, "The FTC is committed to working with the industry and policymakers to ensure that competition is not inhibited and that consumers are well-informed about this important marketplace. Home ownership is the American dream, and real estate brokers have helped to achieve that dream for many. But when anticompetitive practices stand in the way, consumers lose."

Real estate brokers and agents don't want consumers to loose, so that isn't the issue. The real debate is how to "ensure" that the consumer does not loose.

The FTC is recommending that state "legislators and industry regulators" should consider repealing existing laws, rules and regulations like minimum-service and anti-rebate provisions that limit choice and reduce the ability of new brokerage models to compete. To date 12 states have enacted so-called "minimum-service" or "limited-service" laws; Florida, Illinois, Alabama, Iowa, Missouri, Oklahoma, Texas, Utah, Indiana, New Mexico, Virginia and Tennessee.

At this point the minimum-service laws appear to accomplish little more than to add another level of disclosure to the growing stack of paper in a transaction that is already too complex. Many home sellers and buyers already struggle to grasp even the basic aspects of agency and this new addition seems to add no real value to the consumer. In some states, Tennessee for example, agents must spell out services they are not providing to the home buyer or seller - now that makes no sense at all.

There is a broad consensus that the industry has too many licensed real estate agents today for the number of transactions. A former chief economist for NAR, John Tuccillo said in reference to the recent hot market, "There are large numbers of Realtors out there who have not participated in a transaction in months, or even years - and this during the best real estate market in history. The level of competence in the industry has fallen to its lowest point ever," he adds.

So is the solution the implementation of impractical "minimum-service" levels or to follow the latest recommendation to repeal them? Wouldn't a logical argument be that the time has come to rather increase the quality and quantity of the education required to obtain a real estate license in the first place?

The barrier to enter the industry in real estate is very low and when compared to other industries the licensing requirements are far too easy. The average real estate agent only needs to complete some 48 hours of pre-licensing training and pass a simple multiple choice exam to obtain a real estate license. According to research by Anthony Marguleas of A. M. Realty, a California esthetician requires 600 hours, a hair stylist 1,500 hours and a plumber 2,080 hours before they are licensed. The hours required to become a doctor, lawyer, engineer or CPA are obviously off the chart.

So, back to the debate of not wanting the consumer to loose and it is surprising that the FTC Report in its Conclusion and Recommendations does not say one word about ensuring that the participants in the industry are better qualified.

Isn't the logical step to improve the quality and level of service given to the consumer by first improving the quality and level of education and training of the brokers and agents tasked to serve the consumer? Surely this can't be anti-competitive.

The current real estate pre-license education most individuals receive is primarily focused on gaining a better understanding of many of the terms and principles found in the industry so they can pass the exam. The course does little, if anything, to prepare them to become a successful real estate professional.

Therefore, today's average new real estate agent has not been equipped with the necessary skills to properly serve today's consumer. Jim Sherry puts it very bluntly when he states that "Consumers have no guarantee that anyone calling themselves a Realtor actually knows what they are doing."

If the FTC wishes to make recommendations, perhaps it should be recommending higher and better quality pre-licensing as well as ongoing education. This would help ensure that those people licensed to work with the most valuable asset the average family has will be competent in doing so - be he or she a "traditional," "new paradigm" or "online" agent.

Either way, both the FTC/DOJ 2007 Report and the Swanepoel Trends Report 2007 point to the significant change continuing to take place in the real estate industry. For some agents that have been in the industry a long time the "gravy train" has come to an end.

The real estate broker and agent of tomorrow will have to accept the fact that more of them will be fighting for fewer transactions - transactions that are likely to be carrying lower commissions. At the same time technology and new business models will continue to erode away certain functions or duties traditionally exclusively undertaken by real estate agents - again pointing to a decline in earnings per agent.

Real estate has always been a fiercely competitive industry and it is only going to become more so.

The 72-page FTC/DOJ Report can be downloaded at no cost from www.RealEstateBooks.org while the 159-page Swanepoel Trends Report can be purchased from the same site for a 10% discount and free shipping by using the promotional code RIS.

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