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Realtors fight cost-cutters with rule to keep fees high

In the past decade the Internet has changed many things. Consumers today are more likely to book domestic flights online than through a travel agent. And they are as likely to trade stocks with a click of a mouse as with a call to a broker.

New technology has led to lower fees and better informed consumers in many industries. But you won't find many of its benefits in the business of buying and selling homes. You'll generally pay 5% or more to sell, no matter the price of the house, the speed of the sale or the cost of the Realtor's time.

Real estate agents have zealously protected their role as matchmakers by fighting off low-cost Internet brokers trying to revolutionize the business. To keep things that way, the National Association of Realtors (NAR) has proposed a rule allowing members to withhold listings from these upstarts.

The NAR is a powerful lobby with influential members in every congressional district. President Bush is to address its convention on Friday. But storm clouds are looming in Washington: After two years of study, the Justice Department is eyeing a lawsuit to block the pending rule, as part of a broader effort to bring competition to the business, helping home buyers and sellers.

By allowing agents to selectively withhold listings from whomever they want, the rule would transform the heart of their business — the pools of listings known as multiple listing services (MLSs) — into means of thwarting competition. This, in turn, would help preserve a system rigged to maintain high commissions and jobs for Realtors. Consider:

•Commissions. The average percentage paid has drifted down in the past decade, from 6.1% to 5.1%. But soaring prices have led to larger dollar amounts, even as houses are selling at a rapid-fire pace. Commissions paid in 2004 averaged $9,500 on existing homes and $11,600 on new homes.

• Jobs. While the Internet has brought reductions in service jobs in other industries, real estate employment is swelling. Since 1999, membership in the NAR has risen from 740,000 to more than 1.2 million.

Many agents argue that they own their listings and they should be allowed to share them, or not, as they see fit. That argument would carry more weight if they weren't already sharing them. No one is suggesting that companies couldn't keep their listings to themselves. The problem comes when they share with companies that agree to their set of rules while withholding them from others.

Here's the principle at issue: A multiple listing service is essentially a common marketplace created by companies and agents that otherwise compete. Antitrust law generally allows this kind of collaboration, but only if the market is open to all. Once certain companies are excluded, the collaborative effort is no longer a market but a joint venture of established players against newcomers.

For example, five major airlines wouldn't have been allowed to create a travel Web site called Orbitz if the government thought that discount carriers would be excluded.

That type of exclusionary behavior is exactly what many Realtors believe is their right. It's time for someone to stand up to them — and for the people who are buying and selling homes.