

**Congress of the United States**  
**Washington, DC 20515**

January 5, 2018

The Honorable Makan Delrahim  
Assistant Attorney General, Antitrust Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

The Honorable Maureen Ohlhausen  
Acting Chairwoman  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Dear Assistant Attorney General Delrahim and Acting Chairman Ohlhausen:

As the Chairman and Ranking Member of the House Judiciary Committee’s Regulatory Reform, Commercial and Antitrust Law Subcommittee, we are writing to encourage the Department of Justice and the Federal Trade Commission to use their respective authorities to examine competition-related issues in the real estate brokerage industry. Real estate transactions, especially purchases and sales of homes, are the most significant financial transactions most Americans undertake. In 2015, a majority of home buyers said they found on the Internet the home they ultimately purchased.<sup>1</sup> The adoption of Internet and technology services in real estate over the last decade has transformed the home buying, selling and renting process for consumers and it has changed the way real estate professionals are able to interact with each other and the customers they serve.

The Department and the Commission previously examined competition in the real estate brokerage industry in a 2007 joint report, *Competition in the Real Estate Brokerage Industry*.<sup>2</sup> Given the fundamental changes in the industry since 2007, we request that the Department of Justice and the Federal Trade Commission update the 2007 joint report. Among other issues, we think it especially important that an updated report review the availability and distribution of real estate listings data within the industry. The vital role of listings information in fostering competition was previously highlighted in the 2007 report, which found that “the marketplace is likely to function more efficiently – and provide greater benefits to consumers – when consumers have direct access to more information about those listings.”<sup>3</sup>

---

<sup>1</sup> NATIONAL ASSOCIATION OF REALTORS, *Quick Real Estate Statistics* (Apr. 30, 2017), <https://www.nar.realtor/quick-real-estate-statistics>.

<sup>2</sup> U.S. DEP’T OF JUSTICE & FEDERAL TRADE COMM’N, *COMPETITION IN THE REAL ESTATE BROKERAGE INDUSTRY* (2007), <https://www.ftc.gov/sites/default/files/documents/reports/competition-real-estate-brokerage-industry-report-federal-trade-commission-and-u.s.department-justice/v050015.pdf>.

<sup>3</sup> *Id.* at 70.

Alleged conduct to restrict the distribution of listings data by industry incumbents has been the subject of previous inquiries and enforcement actions by the Department and the Commission. Notably, the Department brought a case against the National Association of Realtors (NAR) that resulted in a 2008 consent decree to address conduct aimed at restricting the availability of listings data.<sup>4</sup> An up-to-date report on competition in the brokerage industry would be especially timely now, given the pending expiration of this 2008 consent decree next year. An updated report should not only review the availability of listings data within the brokerage market (especially among small brokers, limited service brokers, and non-traditional brokers), but also examine the availability of listings information directly to home buyers, sellers and the general public via third-party Internet platforms and other means.

Consumers in today's real estate market are empowered with more information than ever and new, innovative services and business models have emerged to better meet the needs of consumers. However, it is critical to ensure that the benefits gained by both consumers and emerging small businesses from the adoption of Internet and technology-enabled services continue to flourish. We appreciate the Antitrust Division and the FTC's continued role in ensuring a competitive U.S. real estate sector that works to the benefit of consumers.

Sincerely,



Tom Marino  
Chairman  
Subcommittee on Regulatory Reform,  
Commercial and Antitrust Law



David N. Cicilline  
Ranking Member  
Subcommittee on Regulatory Reform,  
Commercial and Antitrust Law

cc: The Honorable Bob Goodlatte, Chairman, House Committee on the Judiciary  
The Honorable Jerrold Nadler, Ranking Member, House Committee on the Judiciary  
The Honorable Terrell McSweeney, Commissioner, Federal Trade Commission

---

<sup>4</sup> Final Judgment, United States v. National Association of Realtors, No. 05-CV-5140 (N.D. Ill., E. Div. Nov. 18, 2008), <https://www.justice.gov/atr/case-document/final-judgment-142>.