

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

Commissioners: Deborah Platt Majoras, Chairman
Pamela Jones Harbour
Jon Leibowitz
William E. Kovacic
J. Thomas Rosch

In the Matter of)
)
)
NORTHERN NEW ENGLAND REAL)
ESTATE NETWORK, INC.,)
a corporation.)

Docket No. C-

NNEREN CONDUCT

11. In April 2005, NNEREN's Board of Directors adopted a rule, which was then implemented in May 2005, that stated: "Exclusive Agency listings will not be included in NNEREN datafeeds to any website accessed by the general public such as nneren.com, REALTOR.com, third party feeds, IDX, etc." (the "Web Site Policy"). This rule was rescinded by the Board of Directors on November 9, 2005 and participants were notified of the change on November 10, 2005 by posting in the "Bulletin" on the NNEREN web site, on November 13, 2005 by posting the NNEREN "Board of Directors' Talking

NNEREN MARKET POWER

18. The provision of residential real estate brokerage services to sellers and buyers of real property in the State of New Hampshire and/or the NNEREN Multiple Listing Service Area is a relevant service market.

19. The publication and sharing of information relating to residential real estate listings for the purpose of brokering residential real estate transactions is a key input to the provision of real estate brokerage services, and represents a relevant input market. Publication of listings through the NNEREN Multiple Listing Service is generally considered by sellers, buyers and their brokers to be the fastest and most effective means of obtaining the broadest market exposure for property in the State of New Hampshire.

20. By virtue of industry-wide participation and control over a key input, NNEREN and the NNEREN Multiple Listing Service, have market power in the State of New Hampshire.

21. Participation in the NNEREN Multiple Listing Service is necessary to a broker providing effective residential real estate brokerage services to sellers and buyers of real property in the NNEREN Multiple Listing Service Area. Participation significantly increases the opportunities of brokerage firms to enter into listing agreements with residential property owners, and significantly reduces the costs of obtaining up-to-date and comprehensive information on listings and sales. The realization of these opportunities and efficiencies is important for brokers to compete effectively in the provision of residential real estate brokerage services in the State of New Hampshire.

APPROVED WEB SITES ARE KEY INPUTS

22. Access to the Approved Web Sites is a key input in the brokerage of residential real estate sales in the State of New Hampshire. Home buyers regularly use the Approved Web Sites to assist in their search for homes. The Approved Web Sites are the web sites most commonly used by home buyers in their home search. Many home buyers find the home that they ultimately purchased by searching on Approved Web Sites.

23. The most efficient, and at least in some cases the only, means for NNEREN participants to have their properties listed on the Approved Web Sites is by having the NNEREN Multiple Listing Service transmit those listings.

24. Property owners and their brokers in the NNEREN Multiple Listing Service Area generally consider publication of listings on Approved Web Sites, in conjunction with publication of listings on the NNEREN Multiple Listing System, to be the most effective means of obtaining the broadest market exposure for residential property in the State of New Hampshire.

EFFECTS OF WEB SITE POLICY

25. The Web Site Policy restricted competition by inhibiting the use of Exclusive Agency Listings in the State of New Hampshire and the NNEREN Multiple Listing Service Area.

26. The Web Site Policy may have reduced consumer choices regarding both the purchase and sale of homes and caused consumers to pay for real estate brokerage services that they would not otherwise buy.

THE WEB SITE POLICY OFFERS NO EFFICIENCY BENEFIT

27. There is no cognizable and plausible efficiency justification for the Web Site Policy. The Web Site Policy is not reasonably ancillary to the legitimate and beneficial objectives of NNEREN.

VIOLATION

28. In adopting the policies and engaging in the Acts and Practices described herein, NNEREN had been and was acting as a combination of its participants, or in conspiracy with some of its participants, to restrain trade in the provision of residential real estate brokerage services within the State of New Hampshire and/or the NNEREN Multiple Listing Service Area.

29. The purposes, capacities, tendencies, or effects of the policies, acts, or practices of NNEREN and its participants as described herein had been and were unreasonably to restrain competition among brokers, and to injure consumers.

30. The policies, acts, practices, and combinations or conspiracies described herein constituted unfair methods of competition in or affecting interstate commerce in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this ____ day of _____, 2006, issues its Complaint against Respondent Northern New England Real Estate Network, Incorporated.

By the Commission.

Donald S. Clark