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A Slammed (Open)Door: FTC Reaches $62 Million Proposed Settlement with Real Estate Company

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Last month, the FTC announced that it reached a $62 million proposed settlement with Opendoor Labs, related to the Commission's investigation of the company's representations in advertising to prospective home sellers. Opendoor is an online real estate business in the "iBuying" (or "instant buying") space. iBuying companies use algorithms to determine a home's value and make instant offers to consumers, allowing them to purchase homes directly from consumer sellers as an alternative to traditional sales through a broker. iBuying companies often tout their offering as a simpler, more convenient alternative to a traditional home sales.

According to the FTC's complaint, Opendoor misrepresented to prospective home sellers that they would make more money from selling their homes to Opendoor than by selling on the open market. In actuality, the FTC maintains that most home sellers who used Opendoor's services made thousands of dollars less than they would have had they sold it via traditional channels.

The FTC alleged Opendoor advertised it would save consumers money by providing "market-value" offers and reducing transaction costs. For example, the FTC's complaint cited charts in Opendoor's marketing materials that purported to compare consumers' net proceeds from selling to Opendoor versus on the open market. The agency alleged these representations were deceptive because Opendoor's offers were, on average, consistently significantly below market. Additionally, according to the FTC, Opendoor's costs were higher than those of traditional sales because it requires consumers to pay for repairs they would not have had to make otherwise. Opendoor further misled consumers, according to the FTC, by overstating the costs of traditional sales.

iBuying is currently estimated to account for about 1 percent of all home sales in the U.S., though in certain metro areas, it may be as high as 6 percent. While iBuying still makes up just a small segment of the market, it may increasingly represent the future of real estate – in which case, the FTC's settlement with Opendoor will be instructive to companies looking to enter this space. This decision is also a reminder that companies making cost comparisons should make sure those comparisons are accurate at the time they are first made, remain accurate throughout their use, and do not fail to disclose material differences with competing options.

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