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Who Benefits?

Protecting Consumers From Whom?

by Bill Peacock

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Consumer protection is big business these days. Many people and organizations benefit tremendously from appearing to protect the “little guy” from profit-seeking corporations.

After all, Ralph Nader has made a career out of it. Trial lawyers make millions of dollars off consumer-related lawsuits. Consumers Union had revenues of \$151 million in 2002, while Public Citizen reaped \$12 million the same year.

Government is also a primary beneficiary of consumer protectionism. The activities of the Department of Justice, the Federal Trade Commission, state attorneys general and occupational licensing offices and many other agencies are justified in part by the need to protect the public from business. Federal and state governments expend billions of dollars each year in the name of consumer protection.

Though no one wants to admit it, the big money in “consumer protection” makes advocates just as susceptible to profiteering motives as business executives and shareholders. For if it became apparent that consumers don’t really need all this protection, funding for consumer protection would diminish. As a result, consumer protection laws and activities often promote the advocates as much as they protect consumers.

Many businesses take advantage of this by using the cover of consumer protection to win through government intervention the profits they couldn’t earn through competition. The economic term for this is “rent-seeking.”

This dynamic is taking place today in Texas.

Discount realtors now provide MLS listings for a flat fee with no other service. This new practice allows homeowners to sell their homes on their own without paying the three percent commission that most realtors charge, but still market their homes on the MLS.

While this provides a great benefit to homeowners, it threatens the traditional model that realtors have used to earn commissions. Many full-service realtors are concerned about this, and have asked the Texas Real Estate Commission to limit the ability of consumers to purchase discount realty services.

Twice in the last three years the commission has attempted to adopt a rule requiring a “minimum level of service” to be provided by all real estate agents. This would stop MLS listing for a fee and harm the business of discount realtors, while forcing many consumers to pay for services they don’t want or need.

Full-service realtors explain that minimum level of service requirements are needed because consumers “need someone advising them” about the complexity of real estate transactions. They claim consumers are often confused about the services discount brokers offer.

But consumers are much more sophisticated about their particular needs than they are generally given credit for. Homeowners have all been through the real estate sales process at least once, have access to numerous resources on-line and can purchase additional services for a fee from a discount realtor if needed.

So far, the proposed requirements have been rebuffed – first by a Texas court, and most recently by the federal government. In an April 20 letter to the commission, the Federal Trade Commission and the U.S. Department of Justice (interestingly, these agencies are protecting consumers from the government, not business) said that requiring a minimum level of service is “likely to harm Texas consumers by reducing their choices and likely raising prices without providing any countervailing benefits.”

However, the service requirements were recently inserted into Senate Bill 810, which just passed the Texas Legislature. The success of this latest effort to limit discount realtors probably won't be known until June 19, the deadline for the governor to sign or veto legislation.

Consumer protection is not really all that it is cracked up to be. Consumers are best served by competitive markets where businesses seek to take each others' profits by meeting consumer demand. Efforts to protect consumers from businesses, or from themselves, are most often attempts to benefit those who are missing out on the profits.

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