UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of **OPENDOOR LABS INC., a corporation,**	**FILE NO. 192-3191** **AGREEMENT CONTAINING CONSENT ORDER**

The Federal Trade Commission ("Commission") has conducted an investigation of certain acts and practices of Opendoor Labs Inc. ("Proposed Respondent"). The Commission's Bureau of Consumer Protection ("BCP") has prepared a draft of an administrative Complaint ("draft Complaint"). BCP and Proposed Respondent, through its duly authorized officers, enter into this Agreement Containing Consent Order ("Consent Agreement") to resolve the allegations in the attached draft Complaint through a proposed Decision and Order to present to the Commission, which is also attached and made a part of this Consent Agreement.

IT IS HEREBY AGREED by and between Proposed Respondent and BCP, that:

1. The Proposed Respondent is Proposed Respondent Opendoor Labs Inc., a Delaware corporation with its principal place of business at 410 North Scottsdale Road, Suite 1600, Tempe, AZ 85281.

2. Proposed Respondent neither admits nor denies any of the allegations in the Complaint, except as specifically stated in the Decision and Order. Only for purposes of this action, Proposed Respondent admits the facts necessary to establish jurisdiction.

3. Proposed Respondent waives:

   a. Any further procedural steps;

   b. The requirement that the Commission's Decision contain a statement of findings of fact and conclusions of law; and

   c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Decision and Order issued pursuant to this Consent Agreement.

4. This Consent Agreement will not become part of the public record of the proceeding unless and until it is accepted by the Commission. If the Commission accepts this Consent Agreement, it, together with the draft Complaint, will be placed on the public record for 30 days and information about them publicly released. Acceptance does not constitute final approval, but it

serves as the basis for further actions leading to final disposition of the matter. Thereafter, the Commission may either withdraw its acceptance of this Consent Agreement and so notify Proposed Respondent, in which event the Commission will take such action as it may consider appropriate, or issue and serve its Complaint (in such form as the circumstances may require) and decision in disposition of the proceeding, which may include an Order. *See* Section 2.34 of the Commission's Rules, 16 C.F.R. § 2.34 ("Rule 2.34").

5. If this agreement is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to Rule 2.34, the Commission may, without further notice to Proposed Respondent: (1) issue its Complaint corresponding in form and substance with the attached draft Complaint and its Decision and Order; and (2) make information about them public. Proposed Respondent agrees that service of the Order may be effected by its publication on the Commission's website (ftc.gov), at which time the Order will become final. *See* Rule 2.32(d). Proposed Respondent waives any rights it may have to any other manner of service. *See* Rule 4.4.

6. When final, the Decision and Order will have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other Commission orders.

7. The Complaint may be used in construing the terms of the Decision and Order. No agreement, understanding, representation, or interpretation not contained in the Decision and Order or in this Consent Agreement may be used to vary or contradict the terms of the Decision and Order.

8. Proposed Respondent agrees to comply with the terms of the proposed Decision and Order from the date that Proposed Respondent signs this Consent Agreement. Proposed Respondent understands that it may be liable for civil penalties and other relief for each violation of the Decision and Order after it becomes final.

OPENDOOR LABS INC.

By: ___________________________
Eric Wu
Chief Executive Officer

Date: __________________________

____
Rich Cunningham
Olivia Adendorff
KIRKLAND & ELLIS LLP

FEDERAL TRADE COMMISSION

By: _____________________________
Matthew J. Wilshire
Attorney, Bureau of Consumer Protection

APPROVED:

____
Matthew Wernz
Director, Southwest Regional Office

____
Samuel Levine
Director, Bureau of Consumer Protection

Date: ________________________

No. 192-3191

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS:	**Lina M. Khan, Chair** **Noah Joshua Phillips** **Rebecca Kelly Slaughter** **Christine S. Wilson** **Alvaro M. Bedoya**

In the Matter of	**DECISION AND ORDER**
OPENDOOR LABS INC., a corporation.	**DOCKET NO. C-**

DECISION

The Federal Trade Commission ("Commission") initiated an investigation of certain acts and practices of Respondent named in the caption. The Commission's Bureau of Consumer Protection ("BCP") prepared and furnished to Respondent a draft Complaint. BCP proposed to present the draft Complaint to the Commission for its consideration. If issued by the Commission, the draft Complaint would charge the Respondent with violations of the Federal Trade Commission Act.

Respondent and BCP thereafter executed an Agreement Containing Consent Order ("Consent Agreement"). The Consent Agreement includes: 1) statements by Respondent that it neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Decision and Order, and that only for purposes of this action, it admits the facts necessary to establish jurisdiction; and 2) waivers and other provisions as required by the Commission's Rules.

The Commission considered the matter and determined that it had reason to believe that Respondent has violated the Federal Trade Commission Act, and that a Complaint should issue stating its charges in that respect. The Commission accepted the executed Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments. The Commission duly considered any comments received from interested persons pursuant to Section 2.34 of its Rules, 16 C.F.R. § 2.34. Now, in further conformity with the procedure prescribed in Rule 2.34, the Commission issues its Complaint, makes the following Findings, and issues the following Order:

Findings

1. The Respondent is Opendoor Labs Inc., a Delaware corporation, with its principal place of business at 410 North Scottsdale Road, Suite 1600, Tempe, AZ 85281.

2. The Commission has jurisdiction over the subject matter of this proceeding and over the Respondent, and the proceeding is in the public interest.

ORDER

Definitions

For purposes of this Order:

A. "Real Estate Service" means any service or product designed to assist a consumer in selling a home, including Respondent purchasing homes from consumers. Provided, however, that "Real Estate Service" does not include services associated with transferring, insuring, or recording real-estate titles.

B. "Respondent" means Opendoor Labs Inc.

Provisions

I. Prohibited Deceptive Claims, Including False and Unsubstantiated Claims

IT IS ORDERED that Respondent, and Respondent's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, promotion, offering for sale, or provision of a Real Estate Service, must not:

A. Misrepresent, expressly or by implication, or assist others in misrepresenting, expressly or by implication:

1. that consumers will receive more money using a Real Estate Service than they would using a different good or service;

2. that consumers will save money;

3. that consumers will receive a price for their homes equivalent to what they would likely receive by listing their homes on the market;

4. the amount of repair costs consumers will pay;

5. that consumers will save money on repair costs;

6. that any offer to purchase a consumer's home is an accurate and unbiased projection of that home's market value; and

7. that the person or persons offering any good or service do not expect to make money from reselling homes;

B. Make any representation, expressly or by implication, or assist others in making any representation, expressly or by implication, regarding the costs associated with listing a home for sale traditionally, including agent commissions, home overlap costs, closing costs, seller's concessions, repair costs, staging, or prep-work costs, unless the representation is non-misleading, and, at the time such representation is made, Respondent possesses and relies upon competent and reliable evidence to substantiate that the representation is true; and

C. Make any representation, expressly or by implication, about the costs, savings, or financial benefits of any Real Estate Service, including representations about the amount of money a consumer will receive from using a Real Estate Service, unless the representation is non-misleading, and at the time such representation is made, Respondent possesses and relies upon competent and reliable evidence to substantiate that the representation is true.

II. Monetary Relief

IT IS FURTHER ORDERED that:

A. Respondent must pay to the Commission $62,000,000.

B. Such payment must be made within eight (8) days of the effective date of this Order by electronic fund transfer in accordance with instructions provided by a representative of the Commission.

III. Additional Monetary Provisions

IT IS FURTHER ORDERED that:

A. Respondent relinquishes dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission to enforce its rights to any payment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by or on behalf of the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy

Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other relief (including consumer information remedies) as it determines to be reasonably related to Respondent's practices alleged in the Complaint. Any money not used is to be deposited to the U.S. Treasury. Respondent has no right to challenge any activities pursuant to this Provision.

E. In the event of default on any obligation to make payment under this Order, interest, computed as if pursuant to 28 U.S.C. § 1961(a), shall accrue from the date of default to the date of payment. In the event such default continues for 10 days beyond the date that payment is due, the entire amount will immediately become due and payable.

F. Each day of nonpayment is a violation through continuing failure to obey or neglect to obey a final order of the Commission and thus will be deemed a separate offense and violation for which a civil penalty shall accrue.

G. Respondent acknowledges that its Taxpayer Identification Number (Employer Identification Number) may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

IV. Customer Information

IT IS FURTHER ORDERED that Respondent must provide sufficient additional seller contact information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Respondent must provide it, in the form prescribed by the Commission representative, within 14 days.

V. Acknowledgments of the Order

IT IS FURTHER ORDERED that Respondent obtains acknowledgments of receipt of this Order:

A. Respondent, within 10 days after the effective date of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 3 years after entry of this Order, Respondent must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for Real Estate Services; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance

Reporting. Delivery must occur within 10 days after the effective date of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Respondent delivered a copy of this Order, Respondent must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

VI. Compliance Report and Notices

IT IS FURTHER ORDERED that Respondent make timely submissions to the Commission:

A. One year after the issuance date of this Order, Respondent must submit a compliance report, sworn under penalty of perjury, in which Respondent must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Respondent; (b) identify all of Respondent's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales; (d) describe in detail whether and how Respondent is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For 5 years after the issuance date of this Order, Respondent must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in: (i) any designated point of contact; or (ii) the structure of Respondent or any entity that Respondent has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Respondent must submit notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Respondent within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue

NW, Washington, DC 20580. The subject line must begin: *FTC v. Opendoor Labs Inc., Matter No.* _________.

VII. Recordkeeping

IT IS FURTHER ORDERED that Respondent must create certain records for 5 years after the issuance date of the Order, and retain each such record for 5 years, unless otherwise specified below. Specifically, Respondent, in connection with advertising, promoting, offering for sale, or providing Real Estate Services must create and retain the following records:

A. Accounting records showing the revenues from all goods or services sold;

B. Personnel records showing, for each person providing services in relation to any aspect of the Order, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. All records necessary to demonstrate full compliance with each provision of this Order, including all information or documents necessary to substantiate any claims covered by this Order and all submissions to the Commission;

D. Every six months, a screen capture of Respondent's website pages relating to its Real Estate Services; and

E. Except for material captured as part of subpart (D) of this section, representative copies of advertisements or other marketing materials for Real Estate Services.

VIII. Compliance Monitoring

IT IS FURTHER ORDERED that, for the purpose of monitoring Respondent's compliance with this Order:

A. Within 14 days of receipt of a written request from a representative of the Commission, Respondent must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury, and produce records for inspection and copying.

B. For matters concerning this Order, representatives of the Commission are authorized to communicate directly with Respondent. Respondent must permit representatives of the Commission to interview anyone affiliated with Respondent who has agreed to such an interview. The interviewee may have counsel present.

C. The Commission may use all other lawful means, including posing through its representatives as consumers, suppliers, or other individuals or entities, to Respondent or any individual or entity affiliated with Respondent, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

IX. Order Effective Dates

IT IS FURTHER ORDERED that this Order is final and effective upon the date of its publication on the Commission's website (ftc.gov) as a final order. This Order will terminate 20 years from the date of its issuance (which date may be stated at the end of this Order, near the Commission's seal), or 20 years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying settlement) in federal court alleging any violation of this Order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

A. Any Provision in this Order that terminates in less than 20 years;

B. This Order's application to any Respondent that is not named as a defendant in such complaint; and

C. This Order if such complaint is filed after the Order has terminated pursuant to this Provision.

Provided, further, that if such complaint is dismissed or a federal court rules that Respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this Provision as though the complaint had never been filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

April J. Tabor
Secretary

SEAL:
ISSUED:

192-3191

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS:	**Lina M. Khan, Chair** **Noah Joshua Phillips** **Rebecca Kelly Slaughter** **Christine S. Wilson** **Alvaro M. Bedoya**

In the Matter of

OPENDOOR LABS INC., a corporation, **DOCKET NO.**

COMPLAINT

The Federal Trade Commission, having reason to believe that Opendoor Labs Inc., a corporation ("Respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Opendoor Labs Inc. ("Opendoor") is a Delaware corporation with its principal place of business at 410 North Scottsdale Road, Suite 1600, Tempe, AZ 85281.

2. The acts and practices of Respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

3. Respondent Opendoor operates an online real estate business that, among other things, buys homes directly from consumers as an alternative to sales on the open market or, as the company describes them, "traditional sales." Opendoor promised consumers that they would make more money selling their homes to it than by selling on the market. In fact, consumers who sold to Opendoor lost thousands compared to what they would have received from a market sale.

Opendoor Promised that Consumers Would Make More by Selling Their Homes to It.

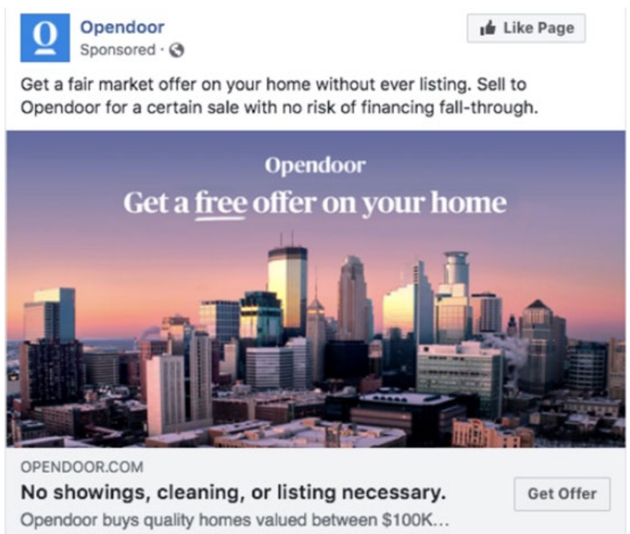
4. Respondent advertised to consumers an "iBuyer" real estate service that directly purchases consumers' homes. Opendoor told consumers that, rather than making money from "buying low and selling high," the company made money from a fee or "service charge," which ranged from 6 to 14 percent of Opendoor's offer price. Opendoor promised to use cutting-edge technology to save consumers money if they sold their homes to it by providing "market-value" offers and reducing transaction costs. Indeed, Opendoor provided consumers selling their homes with a chart comparing the consumers' projected net proceeds from selling to it versus selling "traditionally" by listing on the market. These charts almost always projected that consumers would receive thousands more by selling to Opendoor, even accounting for Opendoor's

substantial fee. In fact, the vast majority of consumers who sold to Opendoor lost thousands compared to what they would have realized in net proceeds from selling on the market because Opendoor's offers have been below market value on average and its costs have been significantly higher than what consumers typically pay.

5. Opendoor designed its marketing to convince consumers that they would make more money selling their homes to it. Opendoor's advertising and website promised "fair market" or "market value" offers with lower costs. When consumers requested an offer, Opendoor provided a multi-page document claiming to provide a market-value offer and a custom chart comparing the net proceeds the consumer should expect from selling to Opendoor versus on the market. For more than [redacted] percent of consumers who received these comparisons and sold to Opendoor, the comparisons projected that the consumers would realize more in net proceeds selling to Opendoor.

Opendoor Promised Consumers "Market Value" for Their Homes.

6. Respondent advertised its home-buying service by claiming that Opendoor made "fair market" or "market value" offers. For example, on Facebook, Opendoor claimed that it allows consumers to "[g]et a fair market offer on [their] home without ever listing."



7. Opendoor similarly claimed on social media that its offers represent "our best estimate of full market value":

8. Opendoor's mail advertisements encouraged consumers to request offers from Opendoor to find out "how much [their] home is worth" and claimed that:

> Until now, there hasn't been a fast and simple way to check on the true market value of your home. At opendoor.com you can see how much your home is worth in minutes. Our [local] real estate experts use market data and an assessment of comparable homes near you to prepare your home price.

Other mail advertisements represented that Opendoor "aim[s] to make a competitive, fair market offer on your home using the most current data."

9. An Opendoor video ad similarly represented that consumers who go through the process of selling their homes on the open market could get "the same offer from Opendoor" without ever listing.

10. Opendoor's ads encouraged consumers to visit opendoor.com to request an offer. The website represented that Opendoor "aim[s] to offer fair market value for your home and take a service charge that enables us to provide world-class service from offer to closing." It further claimed that Opendoor does not make money from a "buy-low, sell-high" strategy. Similarly, if consumers called Opendoor for more information, its call scripts instructed phone representatives to say that "Opendoor only makes a small amount on each sale."

11. A video on Opendoor's website further explained that it uses home-sales data, "local real estate experts," and sophisticated technology to provide "market value" offers:

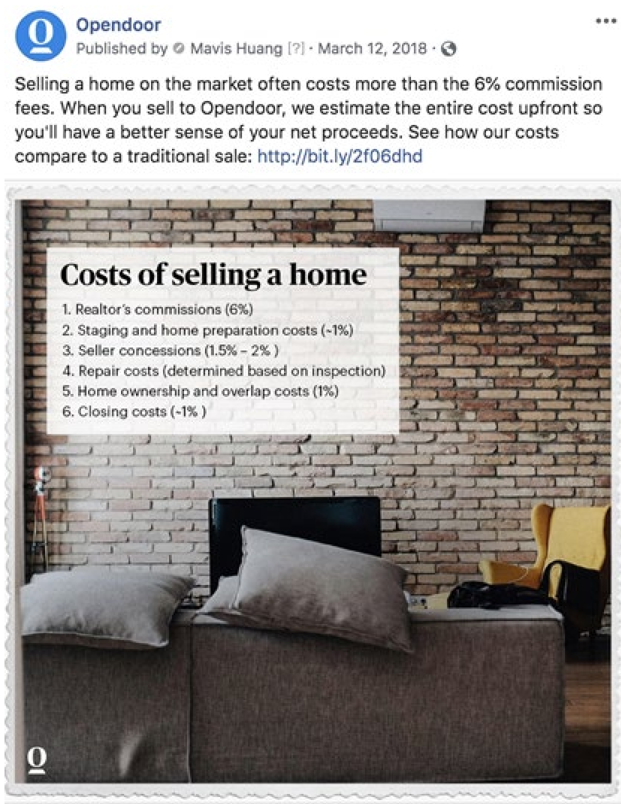
> Every Opendoor offer relies on our robust data model that analyzes thousands of recent home sales in your market, as well as insights from our teams of local real estate experts.

12. The website has also encouraged consumers planning to list on the market to request an Opendoor offer to learn their "home's value" because it has "a deep understanding of market conditions and trends." Respondent has specifically represented that Opendoor's calculation of "home value" "is an estimation of what your home is worth. Also referred to as fair market value, it's the price that a willing and informed buyer and a willing and informed seller can agree on."

13. Opendoor also sent emails promising a "competitive market price" and stating, "You deserve nothing less than what your home is worth."

Opendoor Promised to Provide Lower Costs than Traditional Sales.

14. Opendoor's advertising invited consumers to compare Opendoor's costs to costs associated with selling on the open market. For example, it ran the following ads on Facebook and Twitter, respectively:



15. Opendoor's website similarly claimed that its purported lower cost structure allows it to provide more net proceeds than what consumers would obtain from a traditional sale:

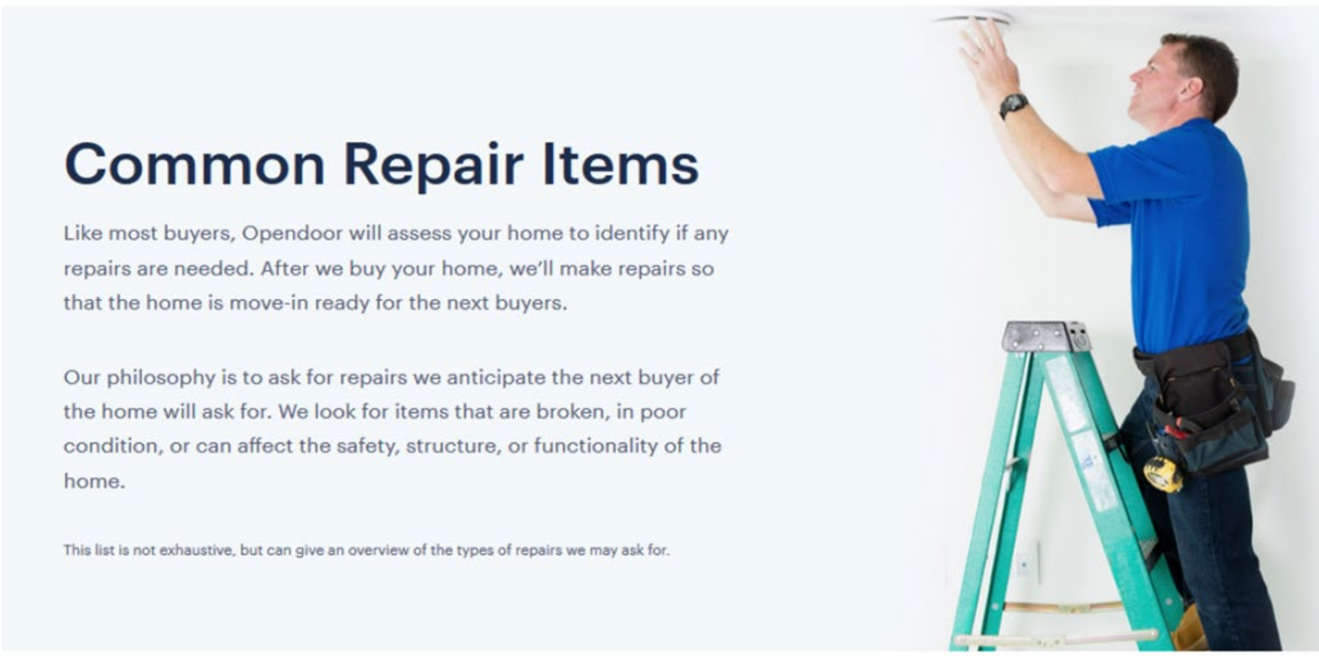
> A common misconception is that you won't sell your home for top-dollar because our fee is higher than agent commissions. When you consider the cost savings we outlined above and the full range of services we provide, your net proceeds can be higher with Opendoor.

16. Opendoor expressly claimed that its only source of profit is from its fee, which generally ranged from six to fourteen percent of the offer price. Opendoor's website represented that the

fee mostly consisted of costs that Opendoor anticipates paying to resell the home and that its profit was only “1% of our total service charge,” and an “amount we collect for providing a stress-free experience.” On a page titled, “How Opendoor calculates the value of your home,” the website explained,

> We don’t try to make “low ball offers” because, unlike a home flipper, our business model isn’t based on buying low and selling high. The way we make money is by charging a fee for our service.

17. Opendoor’s website represented that it may require that the consumer make or pay for repairs Opendoor identifies after an in-person assessment of the property. However, the website also claimed that Opendoor merely requests the same repairs that consumers would otherwise have to make or pay for in a traditional sale. As shown in the image below, Opendoor has stated that it “ask[s] for the repairs we anticipate the next buyer of the home will ask for.”



18. Opendoor’s website described the repair process as designed “to make sure the house is safe and functional” and not designed “to uncover every deficiency in your home to lower the offer.” Opendoor further represented that consumers may even save money on repairs if they sell to it because “we do our best to pass wholesale savings on to you from our partnerships with local vendors.”

19. Opendoor also sent emails assuring potential consumers that the company’s “goal is not to make money from repairs—in fact, we pass any discounts from our vendors directly to you.”

20. To illustrate the likely savings from selling to Opendoor, its website used its “home sale calculator” and a home with a $200,000 market value to demonstrate that consumers who choose Opendoor would save an estimated $4,400 over the costs of traditional sales:

	Selling to Opendoor	Traditional home sale
	6.8% average service charge*	7-10% average costs*
Offer price (example)	$200,000	$200,000
Selling process		
Average days to close transaction	Choose from 14-60 days	50 days
Average days to prep and stage home	0 days	10 days
Average number of showings	0 showings	10 showings
Transaction costs		
Average Opendoor service charge	6.8%	—
Estimated real estate agent fees	—	6%
Estimated seller concessions	—	2%
Estimated home ownership and overlap	—	1%
Repairs needed to sell home	TBD	TBD
Estimated cash before closing	$186,400	$182,000

Opendoor Promised that Consumers Will Make Money Selling to It.

21. To request an offer from Opendoor, consumers enter details about their homes into an online portal. Unless the homes fall into categories for which Opendoor will not make offers, such as homes built before 1960, Opendoor calculates a custom offer and fee amount.

22. Opendoor emails consumers a link with a customized offer within a few days. As shown in the sample email below, until at least 2019, the emails have stated that Opendoor has "just finished analyzing your home's market value, and we're excited to make you an offer!" The emails have also promised that accepting the offer allows consumers to "[g]et full value without paying the many hidden costs of a traditional sale." Some versions of the email have claimed that Opendoor "strive[s] to give market value offers."

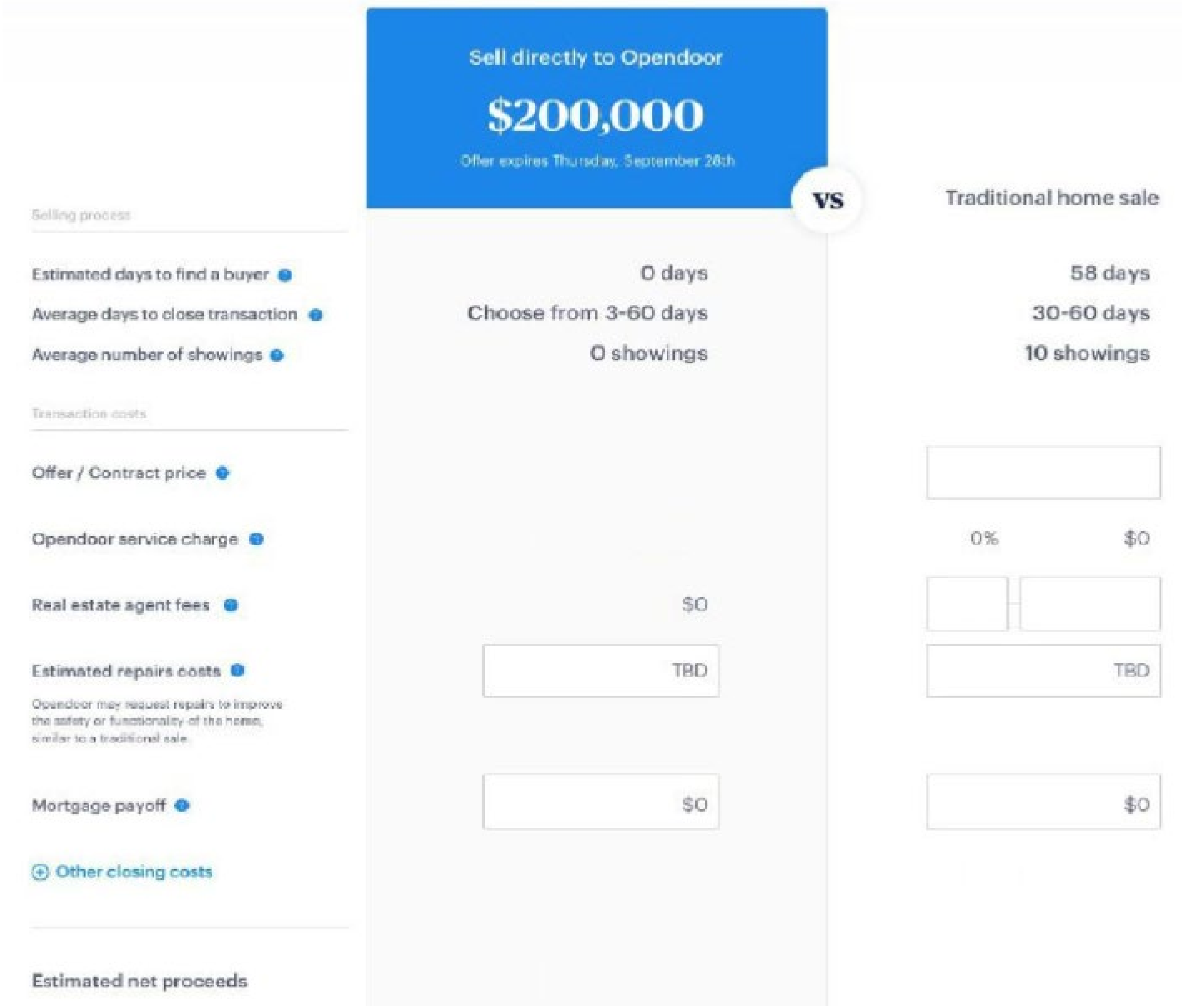
> Hi Robert,
>
> We just finished analyzing your home's market value, and we're excited to make you an offer!
>
> I'm [redacted] and I'm here to answer any questions about your offer and how Opendoor works.
>
> Take a look and let me know what you think:
>
> **View Offer**
>
> You're able to:
>
> - Choose when you move, 3 to 60 days from now.
> - Skip intrusive and inconvenient home showings.
> - Get full value without paying the many hidden costs of a traditional sale.

23. Consumers who clicked the link in the email were taken to a series of webpages presenting the offer ("seller flow"). Until at least 2019, the first page of the seller flow represented that Opendoor's calculation of home value was "based on recent sales in your area," and that its repair and closing costs were "similar to what you'd expect to pay traditionally."

> Hi Teresa, thanks for choosing us. Here's what's in **your offer**
>
> **Home Value**
> Estimated based on recent sales in your area
>
> **Service Charge**
> We'll compare this with the cost of selling traditionally
>
> **Repair and closing costs**
> Similar to what you'd expect to pay traditionally
>
> **Net proceeds**
> Our best estimate of the cash you'll receive at close

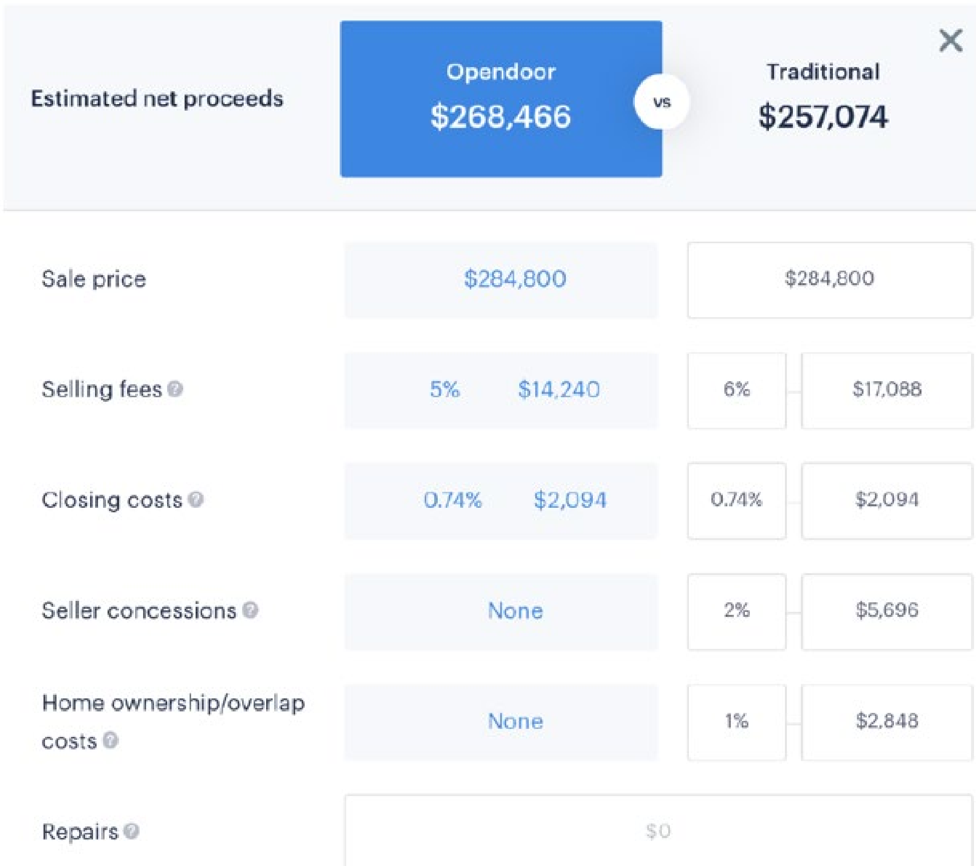
24. The seller flow presented a housing-market analysis and a list of recent home sales on which Opendoor relied in calculating the offer. The seller flow described its estimate of "home value" as "based on comparable home sales and adjusting for differences like square footage, age, features, and location." The seller flow explained that "home value does not include costs associated with selling, such as repair costs."

25. Finally, the seller flow revealed the offer itself within a customized cost comparison chart, similar to the website "home sale calculator" displayed in paragraph 20. The chart projected the net proceeds each consumer would receive from accepting Opendoor's offer versus selling on the market. The chart prepopulated Opendoor's proposed purchase price and the market price as identical. In some cases, the seller flow showed the repair costs in both circumstances as "TBD." In others, they showed the estimated repair costs as identical. Below is a version of the comparison chart. Opendoor used this or a similar format for all its offers.



26. The bottom line of the chart projected the "net proceeds" that consumers should expect to receive from a sale to Opendoor and from a traditional sale. As of November 2019, over [redacted] percent of these charts used in accepted offers projected that the consumer would realize more net proceeds by selling to Opendoor. The average projected gain was more than [redacted].

27. Offers have also included information about market costs. As shown in the representative example below, the offers typically represented that consumers selling traditionally should expect to pay six percent in agent commissions, two percent in concessions at closing, and one percent in "home overlap costs":



Estimated net proceeds	Opendoor $268,466	vs	Traditional $257,074	
Sale price	$284,800		$284,800	
Selling fees	5%	$14,240	6%	$17,088
Closing costs	0.74%	$2,094	0.74%	$2,094
Seller concessions	None		2%	$5,696
Home ownership/overlap costs	None		1%	$2,848
Repairs	$0			

28. In some instances, Opendoor included two disclaimers at the end of the seller flow. Those disclaimers were not conspicuous and were in fine print. Moreover, they did not cure Opendoor's repeated representations that it provided market value offers and that consumers were likely to make more money selling to it. Rather, one merely stated that "[t]hese figures are our best estimates" and the other stated, in direct contravention to Opendoor's marketing, that the offer "does not necessarily represent the 'market value' of your home" because it was not a formal appraisal.

29. The net proceeds comparison charts have provided more information about certain line items if consumers clicked a link adjacent to those line items. For example, if a consumer clicked an icon next to repairs on one version of the chart, a popup graphic provided the following explanation:

> Our philosophy is to ask for repairs we anticipate the next buyer of the home will ask for. We look for items that are broken, in poor condition, or can affect the safety, structure, or functionality of the home. Some examples include roof, foundation, flooring, electrical, plumbing, HVAC (heating, ventilation, and a/c systems), and appliances. On average, a typical repair request ranges from $___ to $_____, but can vary depending on the condition of your home.

Other versions of the offer described repair costs as "[s]imilar to what you'd expect to pay traditionally." In emails, Opendoor described its repair-assessment process as an "inspection" similar to post-contract inspections in market sales.

Most Consumers Who Sold to Opendoor Lost Money.

30. Contrary to Opendoor's promises, consumers actually lost thousands of dollars selling to it compared to what they would have received from a traditional sale. Its offers have not been market value but consistently averaged thousands of dollars below market value. And the costs consumers have paid when selling to Opendoor have been higher than what consumers typically pay in a market sale.

Opendoor Offered Below Market Value for Homes.

31. The overwhelming majority of Opendoor's offers have been significantly below what consumers would have received if they sold on the open market.

32. Opendoor took various steps to reduce offers below what their internal valuation system deemed to be a home's market value.

33. In or around August 2018, Opendoor instituted a policy of lowering offers to cover anticipated repair costs. The policy reduced offers without disclosing that they were less than market value. If actual assessed repairs were lower than the amount withheld, Opendoor retained the difference as revenue. Even before implementing this policy, Opendoor would reduce certain offers to account for potential repairs, which simultaneously provided a sub-market offer and concealed assessed costs from consumers.

34. Opendoor has used an automated system to generate expected market values for homes. In many instances, Opendoor's employees have manually adjusted these values before presenting them to consumers as offers. Opendoor's internal analyses showed that these manually adjusted offers were several percentage points below Opendoor's assessment of market value. Beginning no later than 2019, Opendoor instituted a policy to reduce its manually adjusted offers to [redacted] below what Opendoor assessed as market value.

35. For automated offers, Opendoor instituted a "risk-based pricing" policy in or around June 2019 that automatically reduced offers below Opendoor's assessment of market value to account for risks inherent in reselling the home. This was contrary to Opendoor's marketing claims that the company accounted for these risks in setting the custom fee associated with each offer. For example, Opendoor's website explained that the fee varied to cover "risks and holding costs of the home."

36. At various times, Opendoor has reduced its offer prices to enable it to understate its fees, making its services appear more financially attractive compared to traditional sales or to its competitors.

37. Consumers had no reason to know that Opendoor had reduced their offers through the means described in paragraphs 33-36. Opendoor promoted the offers as "market value," its price comparison chart showed the same price for Opendoor's offers and market offers, and Opendoor

did not disclose these reductions thereby masking its higher costs compared to market sales and competitors.

38. Opendoor's own internal analyses show that its offers have been, on average, below what consumers would receive on the open market. In November 2018, for example, one analysis examined properties on which Opendoor had made offers that the consumers rejected. The analysis shows that those properties sold for more on the open market than the amounts Opendoor offered, in some cases by as much as [redacted] percent. Other internal analyses show that Opendoor's offers were consistently below market. One found in late 2018 shows that [redacted] percent of homes on which Opendoor made an offer eventually sold on the open market for more than [redacted] percent more than Opendoor's offer price. A third-party analysis performed in 2017 concluded that Opendoor's profit from buying and selling could not be fully explained by Opendoor's renovation of those homes.

39. Opendoor claimed that it did not make money from "buying low and selling high," but from "charging a fee for [its] service." But gains from selling homes for more than its offer price are a key contributor to its revenue. A 2019 financial analysis broke down revenue from Opendoor's fee and from "net resale gain" and reported over [redacted] in resale gains in 2018 and [redacted] in projected resale gains in 2019. Presentations to investors touted "resale gain" as a significant contributor to Opendoor's revenue per home.

40. The company also understood more generally that its offers were below market. A presentation in 2016 noted that "[s]ellers that [sic] reject OD offers make more on the open market than their OD offer." In 2019, another internal communication stated bluntly, "We don't offer a fair market value to our customers."

41. Data from Opendoor's real estate transactions confirm that Opendoor makes money not just from its fees, but also from buying homes low and selling them high. After purchasing homes, it lists them on the open market for resale. From 2016 through February 2020, Opendoor sold [redacted] percent of its homes for more than what it offered consumers. The average gain on these homes was [redacted], or [redacted] percent of the homes' average offer price of [redacted].

Opendoor's' Costs Were Higher than What Consumers Would Have Paid in Traditional Sales.

42. Contrary to Opendoor's claims that its home-buying service would save consumers money, Opendoor's costs were higher because it required consumers to pay for repairs that they would not have had to make in a traditional sale. In addition, Opendoor overstated the costs associated with traditional sales.

<u>Opendoor Demanded Repairs for Which Consumers Would Not Pay in Traditional Sales.</u>

43. After the offer, Opendoor has required an in-person "home assessment" to reassess its estimation of value and to determine whether repairs are necessary. If Opendoor concluded that the initial offer was too high, it often rescinded the offer and re-offered a lower amount.

44. Opendoor has almost always demanded consumers make or pay for repairs. Although its marketing has suggested that the company may not require any repairs, as of February 2020, Opendoor had demanded repairs for [redacted] percent of homes on which Opendoor had made an offer.

Opendoor's internal study of sellers who withdrew after receiving repair demands showed that those who sold on the market did so without making all the repairs that Opendoor demanded.

45. As part of the repair process, Opendoor has sent consumers a list of required repairs with the cost it would charge consumers if they agree to deduct the costs from their sales proceeds. The list of repairs has been typically well beyond what consumers would be responsible for in a market sale. Opendoor has routinely requested upgrades to, or replacement of, functional heating and cooling systems, flooring, and roofs. It has also frequently demanded cosmetic changes such as repainting and replacement of items that could be repaired at far lower cost.

46. According to Opendoor's own internal study, as of March 2019, Opendoor demanded repairs that cost, on average [redacted]. The same study concluded that, in a traditional sale, consumers spend less than [redacted], with an average of [redacted] or less than [redacted] percent of the average purchase price. A separate internal study found that Opendoor's "repair ask" is [redacted] percent of the purchase price. Another internal survey examining consumers who cancelled after learning of Opendoor's repair assessment found that over [redacted] percent of them sold their homes without paying for any repairs and concluded that Opendoor's "repair asks are NOT in line with market."

47. Unlike traditional sales, Opendoor demanded that consumers make or pay for all demanded repairs, even though Opendoor's own studies indicate that the parties to a market sale typically share these costs. The repair demands were not subject to negotiation.

48. Opendoor at times has taken up to 18 days after consumers agree to the initial offer to provide them with the list of repairs. By that time, many consumers had already placed deposits on new homes and could not walk away from the new home purchase without incurring a financial penalty. Opendoor's internal communications have described the lag between the initial offer and the later, significantly lower offer as a "'bait-and-switch' operation."

49. In or around August 2018, Opendoor implemented an "Estimated Repair Credit," which surreptitiously reduced offer prices to cover some of the repair costs. Opendoor never disclosed this "credit," and continued to describe its offers as representing the company's best estimate of market value without any adjustment.

50. Opendoor encourages consumers to authorize it to perform the repairs and to deduct the costs from the net proceeds of the sale rather than arrange for the repairs themselves. The company has emphasized the convenience of deducting the repair costs and, as described above, suggested that the proposed repair costs are discounted and therefore less than what the consumer would pay on the open market.

51. If the consumer decides to authorize Opendoor to complete the repairs and deduct the estimated costs from the sale proceeds, Opendoor completes the repairs after it acquires the property. If the repairs cost less than the amount deducted, Opendoor retains the excess as profit, including the undisclosed Estimated Repair Credit that Opendoor deducted from its original offer. One internal study found that for [redacted] of Opendoor's purchases, its deductions for repair costs were greater than Opendoor's actual costs, thereby "taking away [redacted] of seller equity" in each of those sales.

<u>Opendoor Overstated the Costs of Traditional Sales.</u>

52. To make Opendoor's offers appear more financially beneficial than they actually were, it misrepresented the amounts sellers should expect to pay for certain costs of traditional sales. The net proceeds calculator stated that consumers should expect to pay nine percent in real estate agent commissions, "seller concessions," and home overlap costs. In fact, Opendoor's data showed that sellers were likely to pay much less, and the company had no other data supporting its representations about traditional costs. Its marketing also claimed that consumers would likely pay one percent of their sales price, i.e., thousands of dollars, for "staging and prep work." However, in traditional sales, many consumers do not pay to stage their homes prior to sale.

53. During the time Opendoor made inflated claims about the costs of traditional sales, it possessed data suggesting that those claims were false. For example, it claimed that sellers should expect to pay two percent in "concessions" when selling on the market, but it only paid [redacted] percent in concessions when it resold homes.

Consumers Typically Lost Thousands Selling to Opendoor.

54. As of November 2019, Opendoor had promised more than [redacted] percent of consumers from whom they purchased homes that they would save significant money selling to it, with an average projected savings of over [redacted]. In fact, as it was aware, consumers were likely to lose money selling to Opendoor.

55. Its own internal analyses show that consumers lost money selling to Opendoor. For example, a March 2019 analysis of consumers who had accepted an Opendoor offer, but withdrew after receiving Opendoor's repair demand, found that [redacted] percent made more money selling on the open market, with an average gain of [redacted] compared to what they would have received from Opendoor. Other internal analyses have found similar results.

56. Opendoor transaction data confirms that consumers who sold to Opendoor have lost money compared to what they would have received through a traditional sale. Opendoor's data shows that as of February 2020, the average resale price of its homes was [redacted]. However, consumers received only [redacted] on average due to Opendoor's lower offer prices, deductions for repairs, and fees. If those consumers had instead sold on the market for the price Opendoor received on resale, they would have thousands more in net proceeds, even if they had paid the nine percent Opendoor claimed they would pay in agent fees, seller concessions, and overlap costs, and paid [redacted] for repairs.

Count I
False or Unsubstantiated Claims

57. In connection with the advertising, promotion, offering for sale, or sale of its home-buying business, Respondent has represented, directly or indirectly, expressly or by implication, that consumers are likely to realize more money selling their homes to Respondent than they would realize if they sell their homes in traditional sales, such as representing that:

a. Respondent's offers represent its projections of the market value price of consumers' homes without any downward adjustments;

b. Respondent makes money from disclosed fees rather than from "buying low and selling high";

c. Consumers will likely pay the same amount in repair costs whether they sell their homes to Respondent or sell their homes in traditional sales; and

d. Consumers will likely pay less in costs by selling to Respondent than they would pay in traditional sales:

58. The representations set forth in Paragraph 57 are false or misleading, or were not substantiated at the time the representations were made.

Violations of Section 5

59. The acts and practices of Respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this _______ day of _______, 20__, has issued this Complaint against Respondent.

By the Commission.

April J. Tabor
Secretary

SEAL:

Analysis of Proposed Consent Order to Aid Public Comment In the Matter of Opendoor Labs Inc., File No. 1923191

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an agreement containing a consent order from Opendoor Labs Inc. ("Opendoor" or "Respondent"). The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves Respondent's home-buying service. Respondent offers to buy consumers' homes directly as an alternative to listing those homes for sale on the market. In advertisements, on its website, and in its offers to purchase homes, Respondent has represented that: 1) its offers reflect Opendoor's best estimate of the home's market value, with no adjustments to that amount; 2) the costs associated with a sale to Opendoor are generally lower than costs associated with traditional sales; and 3) the vast majority of consumers who sell their homes to Opendoor will make substantially more than if they sold traditionally.

The complaint alleges that, in fact, Opendoor reduced its offers below what it believed to be the homes' market value, costs associated with Opendoor sales were higher than typical costs in a traditional sale, and the vast majority of consumers who sold to Opendoor lost thousands of dollars compared to what they would have made in a traditional sale. The complaint therefore alleges that Respondent violated Section 5(a) of the FTC Act by making false and unsubstantiated claims that consumers were likely to realize more money selling their homes to it than they would realize in traditional sales, including by misrepresenting that: 1) Opendoor's offers reflect its unadjusted assessment of a home's market value; 2) Opendoor does not make money from "buying low and selling high"; 3) the costs of repairs it demands a seller make or pay for would be likely the same as what they would pay in a traditional sale; and 4) consumers would pay less in costs by selling to Opendoor than what they would pay in a traditional sale.

The proposed order contains provisions designed to prevent Respondent from engaging in the same or similar acts or practices in the future. It applies to the marketing of any "Real-Estate Service," defined as "any product or service designed to assist a consumer in selling a home, including Respondent purchasing homes from consumers." It does not apply to titling services, which are not relevant to the allegations in the complaint.

Part I.A of the order prohibits Respondent from misrepresenting: 1) that consumers will receive more money using a Real Estate Service than they would using a different good or service; 2) that consumers will save money; 3) that consumers will receive a price for their homes equivalent to what they would likely receive by listing their homes on the market; 4) the amount of repair costs consumers will pay; 5) that consumers will save money on repair costs; 6) that any offer to purchase a consumer's home is an accurate and unbiased projection of that home's market value; and 7) that the person or persons offering any good or service do not expect to make money from reselling homes.

Part I.B prohibits Respondent from making any representation about the costs of selling a home traditionally unless the representation is non-misleading and Respondent has competent and reliable evidence to substantiate that the representation is true.

Part I.C prohibits Respondent from making any representation about the costs, savings, or financial benefit of a Real-Estate Service unless the representation is non-misleading and Respondent has competent and reliable evidence to substantiate that the representation is true.

Parts II and III require Respondent to pay to the Commission $62,000,000 and describes the procedures and legal rights related to that payment.

Part IV requires Respondent to provide customer information to enable the Commission to administer consumer redress.

Part V requires Respondent to submit an acknowledgement of receipt of the order, and to distribute a copy of the order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for Real Estate Services; and (3) any business entity resulting from a change in corporate governance. It also requires Respondent to obtain acknowledgements from each individual or entity to which a Respondent has delivered a copy of the order.

Part VI requires Respondent to file a compliance report with the Commission and to notify the Commission of bankruptcy filings or changes in corporate structure that might affect compliance obligations.

Part VII contains recordkeeping requirements for accounting records, personnel records, and advertising and marketing materials related to Real-Estate Services, as well as all records necessary to demonstrate compliance with the order.

Part VIII contains other requirements related to the Commission's monitoring of Respondent's order compliance.

Part IX provides the effective dates of the order, including that, with exceptions, the order will terminate in 20 years.

The purpose of this analysis is to facilitate public comment on the order, and it is not intended to constitute an official interpretation of the complaint or order, or to modify the order's terms in any way.