

# Broker Reciprocity--MLS Data for Everyone

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## **Broker Reciprocity: MLS Data for Everyone**

*A new NAR policy allows brokers to post local MLS data on their own Web sites*

*by Carolyn Schwaar*

Millions of consumers visit Internet Web sites each month to search for information on real estate for sale. Property listings are available on thousands of sites everywhere on the Web, from local newspaper sites to national real estate listing aggregator sites, many of which are not broker owned or controlled by REALTORS®.

The site with the most listings is REALTOR.COM, with more than 1.4 million properties for sale attracting upwards of 3.7 million visitors each month. For brokers to capture and maintain first contact with consumers in their area, broker Web sites need to offer visitors the same local information that's available on the national sites.

So how can association executives ensure that their members maintain first contact with consumers in the online real estate transaction? A new NAR policy begins to address these important issues.

### **NAR approves new MLS policy**

Early in 2000, in anticipation of the increasing use of Web sites by REALTORS®, NAR leadership convened a special work group of members to determine how real estate applications on the Internet can be enhanced so that all REALTORS® can inform and serve their customers while adhering to legal and ethical standards.

Careful consideration of the issues, technology, and rapidly evolving competitive marketplace led the NAR Board of Directors to create a policy that authorizes Multiple Listing Service participants to display the listings of other participants on their Web sites. In other words, brokers can now post listing information from their local MLS on their own Web site—with some limitations.

This move has been called the next evolutionary step for MLSs in the electronic age. It enables brokers to brand the MLS information on their sites and create a distinct online identity. According to NAR's Board Programs and Policies department, "There is no question that such online identities are an increasingly integral element in the prospecting and marketing programs of REALTOR® companies."

The NAR policy of allowing brokers to exchange consent to display one another's listings on the Internet is known by several names, including Internet Data Display (IDD) and Broker Reciprocity<sup>SM</sup>, and several MLSs across the country are already doing it. "Regardless of the label, it is a powerful tool to enable brokers with a business presence on the Internet to attract consumers," says Laurie Janik, NAR general counsel.

[Note: NAR now calls it's policy, Internet Data Exchange (IDX)]

Previously, brokers had three ways to offer property listings on their sites. They could list only the properties they represent, offer visitors a link to REALTOR.COM (or another aggregator's site), or link

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them to the local MLS or association site if it had consumer-searchable property listings. Many franchisors, like RE/MAX and Century 21 often pooled the listings from their branch offices into one online database.

But with the increased dependence on the Internet to market properties, NAR's Board of Directors wanted to offer all listing brokers the opportunity to display on their public Web sites the same full list of properties derived from their local MLS that consumers can view on aggregators' sites.

"We wanted to level the playing field," says Shawn Dauphine, MLS director of the Houston Association of REALTORS®, which already has a reciprocal listing policy in place. Some local brokers were already posting the MLS on their sites, since the rules on this practice were "foggy" says Dauphine. So Houston decided that "either we go after the broker data pirates or we make it so that everyone can do it, but put in some regulations," he says.

Yet, despite the fact that brokers have always had the right to allow other brokers to advertise their listings on the internet, the new NAR policy ensures more consistent and widespread access to this Internet marketing option.

To encourage uniform Internet listing opportunities for all REALTORS®, NAR's Board of Directors made reciprocal Internet Data Display a mandatory policy effective Jan. 1, 2002.

### **Educating members**

When Brian Larson, executive officer of the Regional MLS of Minnesota, St. Paul, first discussed Broker ReciprocitySM with his members, the smaller brokers thought it was a power play by the big brokers, and the mega-brokers suspected that the program would favor the smaller brokers, he says.

"The fact is that each kind of broker benefits, but each in a different way," says Larson. Smaller brokers, whose Web sites were previously almost devoid of listings (because they could show only their own), had little to offer consumers. "Broker Reciprocitysm allows them to direct consumers to their sites, with the consumers being confident that they aren't missing anything," says Larson.

Larger brokers, who had the marketing dollars to drive consumers to their sites, had a hard time keeping them there because they needed to visit all the larger brokers' sites to see most of the listings; "Broker Reciprocitysm allows them to offer their customers much more," says Larson.

It's true that the big companies have more marketing money to drive consumers to their Web sites, but they've always had more money to drive consumers to their phones and their offices, says Larson. Smaller companies now can display vastly more inventory than they ever could before, and they can look big, he says.

### **Retaining visitors**

In addition to offering site visitors access to all local listings, one main benefit of the reciprocal display policy is that it enhances a broker's ability to obtain and maintain first contact with the consumer in the transaction.

Brokers in Wisconsin have very distinct Web sites and have created their own online brand, says Peter Shuttleworth, regional MLS director of MLS Inc., Milwaukee. The reciprocal listings policy "allows brokers to maintain their brand," he says, since they can color, organize, and format the MLS listings in any way they'd like, as long as they show the minimum fields.

Another advantage of the reciprocal policy is that brokers can list other brokers' properties, but they are not required to list phone numbers or e-mail addresses. (Some states, however, do require phone numbers.)

### **More listings, more hits**

Mega-broker members of the Regional MLS of Minnesota have enjoyed fourfold increases in traffic to

their sites since Broker ReciprocitySM, notes Larson. "But a couple of one-man operations have told me that their buyer customers are logging into their sites every night to browse for new listings," he says. "These brokers are probably enjoying 10 to 20 times the traffic they would normally have seen."

If members want to enter the world of online transactions, says Larson, they have to offer the inventory first.

### **Program particulars**

Participation in the reciprocal Internet data display program is purely voluntary for brokers. "The listing broker's consent to be a part of the program is critical, because advertising other brokers' listings without their consent is a violation of the REALTORS® Code of Ethics and a violation of many states' license laws," says Janik.

The policy is carried out locally in accordance with the rules of the MLS, which governs the who, what, when, where, and how of such display.

Participation in the MLS does not require listing brokers to consent to the display of their listing data by other brokers. The listing broker's consent may be withheld either on a blanket basis or on a listing-by-listing basis. If listing brokers withhold consent on a blanket basis, however, they have elected not to participate in the reciprocal Internet listing program and may not display the aggregate MLS data of others on their Web sites.

In areas where nonmembers have their listings in local MLSs, like California, they are also afforded the option of displaying MLS data. This policy is intended to apply to all MLS participants, regardless of whether they are REALTORS®.

### **How reciprocal listings are displayed**

MLSs can allow reciprocal listing program participants to display listings on their site in one or both of two ways: downloading or framing.

The easiest way for MLSs to have broker members display the local MLS data is to have them frame an existing public Web site operated by the REALTOR® association or its MLS. If the only public Web site on which the local MLS data appears is REALTOR.COM, then REALTOR® associations can contact REALTOR.COM to obtain a framing agreement. This allows participants to frame only the data from their MLS that appears on REALTOR.COM.

Previously, members' sites could only link to REALTOR.COM, which caused visitors to leave the members' site. Now, if the MLS signs a license agreement, REALTORS® can *frame* the local data from REALTOR.COM within their own site. No member Web site can frame REALTOR.COM in its entirety.

Alternatively, associations or MLSs can have members download the information from the closed or legacy MLS system, or even send them a disk of listings every week. Members can then upload the listings to their Web sites. When preparing the data to be downloaded to members, the MLS should eliminate those fields containing information that is not intended for consumers, such as the compensation and home security codes.

Many associations and MLSs have already put long hours into developing their reciprocal data display policies that conform to their existing MLS rules, state requirements, and now NAR's recommendations. At the Regional MLS of Minnesota, Larson offers his extensive policy, Broker ReciprocitySM logo, and accompanying forms for licensing to other associations free of charge. For more info, go to [www.rmls-mn.com/broker.htm](http://www.rmls-mn.com/broker.htm).

As members increase their use of the Internet to communicate with consumers, market themselves, and sell properties, associations and MLSs will continue to develop new policies and programs to make it more convenient and reliable.

## **Top 8 advantages of reciprocal internet listing policy**

1. All REALTOR® members become empowered to deal with the real estate consumer of the future.
2. Members can fully market their services on the Internet.
3. Members can take advantage of the data brokers have contributed to the system.
4. Members can obtain and maintain first contact with the consumer in the real estate transaction.
5. Brokerage Web sites can become the best source of listing data and compete with other popular sites.
6. Participating brokers may display more data fields (like square footage) than many current Web sites are allowed to display.
7. When consumers visit the Web sites of reciprocal brokers, they will stay longer because the brokers have more listing data to offer.
8. As brokers become more innovative in offering on-line services, listing displays will be a critical factor in their success.

(Information contributed by Brian Larson, Regional MLS of Minnesota)

## **Frequently asked questions on reciprocal internet listing policy**

### **Q. Can brokers authorize some, but not all, participants to display their listings on the Internet?**

A. If brokers consent to the display of their listings by other participants under the program, then any other participant in the MLS may display those listings. If brokers prefer to authorize some, but not all, participants to display the listings, this can be accomplished but not under the reciprocal program. Separate consents would have to be granted to each participant authorized to display the listings. MLSs may—but are not required to—transmit listings to any destination a broker authorizes. The decisions as to whether an MLS will provide such a service, and the related charges (if any), are matters to be determined locally.

### **Q. Can MLSs charge a fee for downloading listing information to participants?**

A. Yes, NAR's reciprocal policy does not affect the right of associations and MLSs to assess fees and charges for services provided to participants. This remains a matter of local determination, subject to the parameters of existing policy.

### **Q. What are the costs of IDD to brokers, MLSs, and associations?**

A. Costs can vary widely in implementing reciprocal listing display. For an MLS, costs can be incurred for reprogramming existing software (or buying new software) and maintaining a separate database of program participants.

Costs are also incurred for developing and updating member contracts to include language covering the IDD program. New online or print forms need to be created that cover MLS members' participation in the program and new rules and procedures.

MLSs and associations will incur costs to educate brokers on the new reciprocal program, their responsibilities, and options. Staff time to track and record broker participation in the program may also be needed.

For some MLSs and associations, it may be necessary to alter your vendor software, depending on the level of convenience and service you plan to offer members. When brokers upload or update their listings, your vendor can create a button to denote nonparticipation in the program. This can be done on paper as well.

For broker members participating in reciprocal Internet Data Display, some reprogramming of their Web sites may be necessary—depending on the level of service they wish to offer consumers. Several Web site design and hosting companies are already marketing reciprocal listing display upgrade packages to brokers and associations.

### **Q. With all the property information available on the Internet, how can consumers be assured that the info on a broker's site is an official MLS?**

A. One rule suggested by NAR is that the source of the information be indicated. If such a rule is adopted, consumers visiting a REALTOR® site will be told not only who's listing the property, but also the source of the data they are viewing.

### **Q. Does this policy conflict with license law or the Code of Ethics?**

A. Implementation of reciprocal policy must be consistent with state law. NAR's policy statement is consistent with the Code of Ethics since no display of other Participants' listings can occur without their consent. Consent, though, is assumed unless affirmatively withheld by the listing participant.

The following amended Statement of Multiple Listing Policy became effective upon approval by the NAR Board of Directors on May 19, 2001.

Associations of REALTORS and their Multiple Listing Services are encouraged to immediately, and must by January 1, 2002, enable MLS Participants to display on Participants' public websites aggregated MLS active listing information subject to the requirements of state law and regulation. To comply with this requirement MLSs must, if requested by a Participant, promptly provide basic "downloading" of current listing information. Associations and MLSs can also offer alternative display options including framing of Board, MLS, or other publicly-accessible sites displaying Participants' listings (with permission of the framed site). For purposes of this policy, "downloading" means electronic transmission of data from MLS servers to Participants' servers. This policy does not require associations or MLSs to establish publicly accessible sites displaying Participants' listings.

Unless state law requires prior written consent from listing brokers, listing brokers' consent for such display may be presumed unless a listing broker affirmatively notifies the MLS that the listing broker refuses to permit display (either on a blanket or on a listing-by-listing basis). If a Participant refuses on a blanket basis to permit the display of that Participant's listings, then that Participant may not download or frame the aggregated MLS data of other Participants.

Access to MLS databases of current listing information, or any part of such databases, may not be provided to any person or entity not expressly authorized such access under the MLS rules.

In addition, the following guidelines are recommended but not required to conform to National Association policy. Pursuant to these guidelines, MLSs may:

1. prohibit display of confidential information fields intended for cooperating brokers rather than consumers
2. require that any listing displayed identify the listing firm
3. require that the identity of listing agents be displayed
4. require that information displayed not be modified
5. require that any display of other Participants' listings indicate the source of the information being displayed and require Participants to refresh all downloads and refresh all data at least once every seven (7) days require Participants to indicate on their websites that the information being provided is for consumers' personal, non-commercial use and may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing
7. may establish reasonable limits on the amount of data/number of listings that consumers may retrieve or download in response to an inquiry
8. limit the right to display other Participants' listings to a Participant's office(s) holding participatory rights in the same MLS

#### **Additional local issues/options**

1. Where MLS participatory rights are available to non-member brokers or firms as a matter of law or local determination, the right to display listing information pursuant to IDX may be limited, as a matter of local option, to Participants who are REALTORS.

2. MLSs may, but are not required to, limit the right to display listing information available pursuant to IDX to MLS Participants licensed as real estate brokers.

3. MLSs may, but are not required to, allow non-principal brokers and sales licensees affiliated with MLS Participants to use information available through IDX to populate their own websites.

Even if use of information through IDX is provided to non-principal brokers and sales licensees affiliated with MLS Participants, such use is subject to Participants' consent and control and the requirements of state law and/or regulation.

4. MLSs may, as a matter of local option, limit information which can be downloaded and/or otherwise displayed under IDX to properties listed on an exclusive right to sell basis.

5. MLSs cannot prohibit Participants from downloading and displaying or framing other brokers' listings obtained from other sources, e.g., other MLSs, non-participating brokers, etc., but can, as a matter of local option, require that listings obtained through IDX be searched separately from listings obtained from other sources, including other MLSs.

6. MLSs may, as a matter of local option, require Participants to consent to display of their listings by other Participants under IDX as a condition of having their listings transmitted to aggregators/publishers of real property ads.

7. MLSs may, as a matter of local option, charge the costs of adding or enhancing their "downloading" capacity to Participants who will download listing information. Assessment of such costs should reasonably relate to the actual costs incurred by the MLS.

#### **RealtorAE.com online resources**

**Reciprocal Internet listing policy guide:** There is a wealth of information online in the Internet Data Exchange Virtual Kit at <http://www.RealtorAE.com/mempoiWeb.nsf>. Associations are welcome to reprint or post this article online for members—in its entirety and unedited.

**For the latest developments on IDX visit:** <http://www.realtorae.com/realtorae.nsf/pages/IDX>

*Broker Reciprocitysm, which was one of the models used by NAR to develop Internet Data Display, is actually the name of a branded term at the Regional MLS of Minnesota. The Minnesota logo above is available for licensure to any association free of charge; visit <http://www.rmls-mn.com/>*

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