The Realty Alliance is a network of more than 70 real estate firms that utilize a variety of business models and participate in more than one out of 10 real estate transactions in the United States through the efforts of more than 100,000 real estate practitioners.

Our experience is not academic or theoretical, but gleaned from every day experience in the field, assisting sellers and buyers. Our experience tells us the following about the state of competition in the residential real estate industry today:

- Consumers have more access to real estate data today than ever, so much so that they can be overwhelmed with the mountains of data available to them and with the large number of sources for that data and the tools with which to analyze that data.
- Listings platforms have easier access to more reliable and up-to-date real estate data from a larger number of sources than ever.
- New real estate brokerage business models are more numerous than ever and these industry entrants are finding a level regulatory and industry infrastructure playing field and are finding they not only can survive, but can succeed and grow and become major players as alternative options for consumers in the market.
- Real estate brokerage commissions are flexible and the number of options for both amounts and methods of setting real estate brokerage compensation are greater for the consumer than ever before.
- Current regulatory schemes are adequate for protecting consumers and allowing for markets to deliver innovation and options to today's consumers.
- Consumers selling properties should have their rights to choose their marketing strategy and to choose how their listing data is managed left intact – by both regulators and Multiple Listing Services (MLSs) – even if the consumer chooses not to utilize the MLS or certain advertisers or real estate brokerages in their marketing. The consumers' listing data is their valuable intellectual property.
- MLSs play a pro-competitive role in the marketplace.
- Consumers signing brokerage services agreements are owed a list of duties their broker should perform to ensure they are protected and that potential transactions are not lost due to inaction by the listing brokerage.

Residential real estate brokerage has become more competitive and more vibrant over the last 10 years as recovery from the market downturn and new technologies have sparked new ideas in business models and new tools have been free to emerge, tools that make the shopping and transaction more efficient and smoother for consumers and the industry participants who serve them. Companies that were operating 10 years ago would now testify that there are more options for consumers in terms of business models, service levels and pricing approaches from real estate brokerages today. Real estate firms have improved their offerings at least in part due to the increased levels of competition, as well through the incorporation of new ideas and new tools first introduced by enterprising new entrants to the industry. And, real estate salespeople have shown an openness and acceptance of the new business models, as the new entrants have had great success in recruiting established agents. Discussions among non-competing brokers at our recent events consist in large part about the need to deliver services and information better, faster and cheaper due to the increased level of competition in the residential real estate business. Our firms fully embrace that challenge, but there is no doubt in the mind of any of my members that competition not only is healthy today, but also is greater than ever.

One size fits all does not apply to real estate buyers and sellers in theory or in real-world situations. Consumer preferences could be mapped on various spectrums, measuring their desire for high-tech vs. old school, a long list of services provided vs. a short list, new business models vs. traditional, and other factors. Current public policy allows for low barriers to entry for brokers and agents compared to other fields, and policy also allows a wide variety of types of service offerings from brokerages to exist in the marketplace. New models have the same opportunities as existing models, fall under identical laws, rules and regulations and have the same access to data and tools as every other real estate company in the marketplace. All real estate companies use significantly more technology today than 10 years ago, just as consumers have a much higher comfort level with and demonstrate greater use of technology over the same span. But ultimately, when one looks past the technology, consumers continue to select from among a variety of available business models for the arrangement that best fits their situation. Today it is much easier for a consumer to weigh his or her options. And, the last 10 years have shown that new entrants have been even more successful in building their businesses and build them quickly than in other decades. The list of most active business models and brands in the marketplace today includes firms that did not exist even five years ago. In fact, the number of new entrants in the last 10 years may dwarf a list drawn up of new entrants from multiple decades before.

The real estate transaction is difficult, if not impossible, to completely automate. Service thus is the primary value add of the real estate professional. Customers today access more information about the property and the process than ever before, and often accumulate so much data that they become overwhelmed. A close second to service in terms of the value provided by real estate practitioners is expert analysis of these mountains of data. Increased regulation and additional liabilities have made the trusted advisor role of a human being even more important to consumers, despite all the conveniences of today's more accessible data and technology at their fingertips. Trust and reputation and relationship continue to dominate consumer choice for brokerage services as a result. Those factors are available both to new models and existing companies equally to develop. Efficiencies and rising sales prices have contributed to reported reductions in the percentages charged to consumers, but the public has proven it continues to be willing to pay for expert advice and assistance in most cases. In fact, anecdotal evidence indicates the more sophisticated the buyer or seller, measured by experience with multiple transactions, the more likely that consumer is to choose full service and willingly pay higher fees.

Consumers and real estate practitioners have benefitted greatly from the application of new technology to real estate. In fact, using the word "search" for the process of looking up information on real estate for sale is close to an overstatement today. Consumers can begin their property search on their own in advance of contacting a licensed professional and can find a complete list of property data from such a long list of free, public websites that they only visit a small percentage of them before realizing everything is everywhere. Real estate salespeople spend little time taxiing consumers from one property to the next, as most consumers today significantly narrow on their own their list of potential properties to consider before engaging the services of an agent, so real estate practitioners enjoy using their time more efficiently. Not only is the basic property information accessible within moments using any search engine, a long list of tools to analyze data beyond the property have come online over the last several years. Data connecting parcels with relevant community and neighborhood information such as schools, crime, parks, proximity to public transportation, "walk score" measures and other information are found on most websites. Consumers also have access to a long list of tools that can help them begin to formulate a reasonable market price for a property, calculate the potential value of various renovations/additions, and plenty of other property-related tools. Accessibility of data is not a challenge for consumers, which has highlighted the need for a qualified professional's expertise and service. All the tools do have drawbacks, as every property is unique, and tools and calculators get a consumer only part way. Although there is no lack of access to data, the information and the tools never will be enough. Consumers need expert analysis and advice specific to each property, and it often is necessary to visit the property in person.

Barriers to entry into the real estate industry are low as compared with many other industries, and state laws allow for the complete spectrum of business models to form and operate under the same rules. As a result, competition is robust among companies and salespeople. Fees are not set by any law or regulatory body, so consumers are free to negotiate commissions and do. And, the real estate ecosystem allows for a wide variety of service providers to thrive and compete in the industry, operating as support to consumers and to agents/brokers and not as licensed real estate firms. The current structure has few, if any, gaps and much duplication of services, a sign of a highly competitive and open marketplace. More efficiency is needed between the MLS and its participants, as brokers too often fight unnecessary technical, staffing, procedural and other challenges in getting use of the data to which they legally are entitled, but this red tape does not affect the overall competitive landscape too significantly, as most all brokers in a market would be at the same disadvantage if their MLS was unwilling or unable to deliver all services. The Upstream project, currently in the early stages of launch, is designed to improve the quality and efficiency of data yet will incorporate the necessary legal framework into the platform. Upstream will strengthen competition and empower real estate brokerages to make individual business decisions with their customers relating to real estate data. Upstream cannot and will not steer business or data to or away from any entity. Upstream is designed to give customers and their brokers more flexibility and efficiency, but not impact the competitive landscape of the real estate industry negatively.

Procedures and requirements for accessing property data are necessary and reasonable and far from unnecessarily privileged. No vendor seriously engaged with the real estate industry can legitimately claim data is not accessible. No member of the public claims data on properties for sale is not available in abundance from a long list of sources. Industry participants and institutions continue to work toward "perfect" in information quality, but organizations like the Real Estate Standards Organization (RESO) and MLSs and brokerages and industry associations are the best avenues for working to that end, as they have the incentives and financial structures and processes built in that are necessary for the best database(s) to be built and maintained. And, real estate data is incomplete and less valuable without images, which certainly invoke copyright protections, as do various compilations of real estate data. This is more reason the current structures are most appropriate for curation and storage and distribution of real estate data and that simple, "open" databases would not meet the many legal requirements relating to real estate information. Home sellers are the consumer public. They have rights regarding their data and the systems currently in place protect those consumers.

A significant inefficiency in today's real estate market, and an important source of confusion for consumers, is the practice of websites listing several salespeople alongside information about a property for sale. The best source for information about a property for sale is the listing broker/agent. Often there is no clear indication of which person is the official listing broker/agent on these sites, so the consumer makes a random choice and most often connects with a salesperson who is not the listing broker. This practice is confusing at best, and deceptive at worst. Guidelines listed at FairDisplay.org have been determined as best practices for websites that advertise properties for sale/rent, but thus far the marketplace has not fully embraced these practices, as following them does not allow sites to sell ZIP Codes to multiple people and extract extra money from the transaction.

This brings up the reality that websites that are not broker/agent websites are perhaps the most significant reason commission rates have not declined more than they have. The most efficient way for a consumer to get the best information about properties for sale or rent would be for the consumer to go straight to the listing broker's website. This could be achieved by typing an address directly into any search engine (no software or subscription required). Real estate website advertising companies have inserted themselves into the process unnecessarily, adding significant cost to the transaction and adding an unnecessary step in the process.

While protecting the consumer is a priority for all involved in the real estate transaction, one should keep in mind that the decision to buy a property is one consumers give significant consideration. Online and retail and other purchases can be impulse buys with significant buyer's remorse, but home buyers spend much time considering the purchase, consulting experts and friends and relatives and online and other resources. And, throughout the process they are interacting with a list of experts they can consult. As policy makers address real estate issues, the real estate transaction can be viewed as unique in this way. It is a large purchase and it is complex, but as a result, consumers are given plenty of time between starting their search and when all the closing documents are presented weeks later. And, the transaction presents multiple opportunities to reflect on specific aspects of the property – termite inspection, radon test, home inspection, financing process, etc. – and to reconsider and to inspect further. There is more "hand holding" and education and access to resources than most any other transaction.

Many assumptions have been made in discussions about "off market" property listings, and not all of them are correct. We often hear the assumption that the source of these arrangements is a "greedy real estate broker" trying to earn higher commissions. In theoretical discussions on this topic, we hear this assumption built into the conversation and never questioned. However, those who actually practice real estate every day know that consumers themselves are the genesis of these arrangements. Consumers rightly believe they have every right to market their property as they see fit, allowing of course for public policy on fair housing. Legitimate circumstances arise in the unique circumstances of an individual property owner and/or in the local market that make a "pocket listing" the best course for the consumer. While no consumer can fully understand all the implications of any action, these types of decisions are not made without consideration. And, a listing broker who is a Realtor is governed by the "Code of Ethics," which addresses situations like these. Consumers who wish to limit their marketing should not be compelled by any MLS or advertising medium (website, etc.) to utilize that avenue or support any particular real estate brokerage business model that would prefer the consumer to market utilizing their services. Brokers should work to inform and disclose, which generally they do, but no law or regulation should compel a consumer to support an MLS or advertiser or business model when the consumer believes doing so would harm their best interest. Many marketing strategies succeed in the real estate market. Some utilize virtually every available marketing avenue, most use a select number and the small percentage who use "pocket listings" use the least. Consumers are served best when they are allowed to choose their own strategy and there should be no additional regulatory intervention in this area. Since the beginning of real estate marketing the consumer has been allowed "off market" listings -- to market his or her property outside the MLS. In most cases this is "for sale by owner" (FSBO). This freedom should continue and every approach on the spectrum, from FBSO to "pocket" to limited marketing to anything goes, should be available as an option for every consumer. If a consumer wants to try to market the property himself or herself or has a friend or relative lined up to buy, the consumer should be allowed such a sale outside the MLS and outside of advertisers and real estate firms.

Other than industry interlopers who feel they have a right to all real estate data and the right to market all real estate for sale, there has been no hue and cry that consumers be mandated to put properties for sale on the MLS or to require the property be advertised everywhere possible or that their property information be used to support every real estate brokerage model. The selling consumer's wishes should supersede all outside interests. Some consumers start marketing via a "pocket listing" and later decide to include the MLS in their marketing strategy. Some consumers sell their property while it is still in "pocket" status, and this should not be a crime. It is incorrect to assume the consumer "loses" when utilizing only a "pocket listing" marketing campaign. State regulators already are addressing the clarification between "off MLS" and "coming soon" status of properties, and policy makers should be sure to understand the difference when considering the "off market" topic.

Rhetoric about MLSs being significantly harmed by "pocket" listings and "iBuyers" and FSBOs is overly dramatic and incorrect. The historical data within each Multiple Listing Service is more than adequate to produce reliable valuations, even without the very small percentage of alternatively marketed listings. And, MLSs have ways to account for the adjustments needed for pricing models used with iBuyers. MLSs also have ways to incorporate data for sales that happen outside the MLS if the MLS chooses to utilize those options. MLSs exist primarily to facilitate cooperation and compensation, and valuation is an important benefit to participants, as well. However, the use of non-traditional, non-MLS marketing in some cases is by no means a threat to the reliability of MLS data for use in setting listing prices, etc.

Price competition is more prevalent today than 10 years ago. In the recent workshop hosted by the Department of Justice and Federal Trade Commission, panelists from non-traditional real estate brokerage business models represented new approaches to competing on price, cited no regulatory or infrastructure barriers to getting started or succeeding, and boasted of both the confidence they have in their future success along with specific proof of the success they already had achieved. Redfin's representative pledged that he would contact regulators if he saw any such barriers for new entrants and stated he had seen no such impediments yet, for his firm or for others'.

Real estate brokerage models that brand, market and differentiate based on their version of what other, "traditional" brokerages charge actually are no different in their thinking related to pressure on commissions. Though they portray "standard" commissions – and there is no such thing – as 6 percent, they resist outside, artificial intervention in the setting of their fees. Panelists at the FTC/DoJ workshop listed 1 percent, $3,600, $2,500 and other starting-point fees their firms offer. Each of these is negotiable, just as "traditional" fees are. Just as "traditional" brokerages are not leading a campaign to slash the pay they receive for their expertise, time and effort, those low-fee firms would not lead a campaign to slash their pay any further, either. Lack of enthusiasm for outside pressure to lower fees is understandable. Employees of the Federal Trade Commission and the Department of Justice would not be thrilled to hear that an outside entity was looking to come in and lower the salary of each agency's employees. The real estate transaction is more complex than ever, so the default mindset that compensation to brokers/agents should get lower over time is flawed. However, data shows commission percentage rates are, in fact, declining. In the most-recent issue of *REALTrends* magazine, results of a commission study show a steady drop in commission rates over the last five years. Commission rates are fluid, not fixed. Correlations are made with the amount of listing inventory and other factors. The market is working. Customers have a wider variety of pricing options than ever before and real estate practitioners are pricing more efficiently than ever before, to the benefit of the consumer. And, brokerage models of all kinds have more tools than ever before to make consumers aware of each alternative on pricing. One major player is using old-fashioned billboards, and others use low-cost electronic media to reach home buyers and sellers online.

Policy makers have been involved in discussions about what services consumers are due from those taking fees from the public. Balance has been found in state laws, which provide more than ample access to industry entrants, and at the same time ensure consumers are not stranded in the middle of the largest transaction of their lives. When "minimum services laws" began appearing in the early to mid-2000s, the international federation of real estate licensing and regulatory agencies, known as the Association of Real Estate License Law Officials (ARELLO), began to study the issue. ARELLO comprises organizations with authority over real estate practice around the world. In the United States, its members are state government agencies, since real estate law is state based. These state regulators in 2005 invited the U.S. Department of Justice and the U.S. Federal Trade Commission to participate in an in-person workshop on the topic, which they did. The conclusion of the state and federal officials involved was that, though some who supported the enactment of these laws might have been motivated by trying to keep new business models out of the marketplace, these "minimum services laws" put in place important consumer protections, and thus, if written fairly, should be left in place. Sellers were signing agreements with licensed real estate brokers with the promise the broker would "put the listing in the MLS" and little more. Yet, as action was needed by that listing broker to coordinate with potential buyers (and their agents), the transaction was being held hostage by inaction by the listing broker and the seller and the transaction were stranded. State legislatures determined that these consumers needed protection from listing broker inaction and required that real estate licensees do at least the minimum to help the seller move toward a sale and to keep the buyer's agent from being tempted to violate his/her fiduciary duty to the buyer by performing duties on behalf of the seller. This is an over-simplification of the issues and the discussion for the purpose of brevity, but these laws were not enacted and allowed to stand without in-depth study by state and local regulators. Minimum services laws should not be dismissed out of hand as unfriendly to consumers on their face. In fact, quite the opposite, they are in place today because of their practical and important value in consumer protection. A lot of discussion was generated in the 2000s by the advent of these laws, but there has been little to no conversation about them in the last 10 years – until the FTC/DoJ workshop was announced – for good reason. They are working and consumers are getting now the protection they need when they hire a brokerage whose business model is short of "full service."

Competition in residential real estate in the United States today is healthy. Consumers and industry participants have more access to better data from more sources than ever before. Real estate brokerages have fair access to enter the market with a variety of business models and are finding success. Consumers have more options than ever for the nature and cost of real estate brokerage services and have more information about their options than ever. Regulation is adequate in its current state. Consumers understand the significance of the real estate transaction and participate actively in researching their options and the issues related to buying and selling property. New tools and technologies, including the Upstream project, promise to deliver greater efficiency, greater data accuracy and greater data availability for consumers and for industry participants. We expect competition to remain vibrant and the consumer experience to continue to improve in the years ahead.