



CMLS Brings It

Proposed Changes to the IDX Rules

Via WebEx, 10/31/2011

Rules of The Day



- All attendees will be muted initially
- Please use the “chat” option to send your questions to the presenter
- To comment during open sessions, send a chat and you will be called on by name and then unmuted.
- We are using “tweet-talk” rules today – you have 20 seconds to make your comment or suggestion.

Today's Agenda



The PAG & The Policies

Bob Bemis, ARMLS

The Groundwork

Matt Cohen, Clareity Consulting

The Interpretation:

John Rees, Esq.

The Challenges:

Jim Harrison, MLS Listings

Greg Manship, Intermountain MLS

The Solutions – a Start:

Cathy Holefelder, Heartland MLS

The Next Steps

Merri Jo Cowen, MFRMLS



PAG Report and Policy Recommendations -- Overview

BOB BEMIS

ARIZONA REGIONAL MLS

PAG Charges



Charge #1 – Report back on Franchisor IDX:

- *The current IDX policy remains in effect, with the addition of a listing broker opt-in to franchisor indexing and display that becomes effective 30 days from May 14, 2011 until the committee reports back at the 2011 Annual Convention.*

Charge #2 – Address open issues of IDX displays in Social Media and Mobile Applications.

Charge #3 – Address whether the IDX policy should be changed to authorize RSS delivery.

Franchisor IDX



PAG Recommends rescinding the policy that allows Franchisors to display IDX data.

Further, Franchisors should be handled the same as other third-party, non-participant aggregation sites, including opt/in-out at the local MLS's discretion.

Support Syndication.

Social IDX



PAG recommends we enhance and expand current IDX policy to address the unique aspects of displaying IDX listings in a social media. In a nutshell:

- If you can display required content, do it.
- If you can't display it, link to it.
- If you can't link to it, don't display it.
- Obey the law and MLS R&Rs at all times.

Social IDX Distribution



- PAG recommends we amend policy to clarify that how data gets to a display is not relevant. What is displayed is subject to the policies and rules.
- All delivery mechanisms and devices (including mobile) may be used to display IDX listings provided that the display complies with the IDX policy and applicable laws and regulations.

How can we do this?



The PAG report does not recommend how MLSs monitor compliance or enforce rules.

It recommends changes to address real world situations, media and channels that your agents are using today.

Two choices: Accept reality and deal with it, or keep talking about it hope it will go away.



The Social Life of A Listing – and RSS Tutorial

MATT COHEN

CLAREITY CONSULTING



The Social Life of Listings

The Groundwork



- Matt Cohen
- Clareity Consulting
- www.CallClareity.com
- Matt.Cohen@CallClareity.com



Social Media Policy? Hardly!



- The PAG recommendation is *much more broad* than a social media policy
- Allows IDX listings “on others' websites where displays are controlled by participants”
- Attempts to distill social media to a broader principle. Admirable and more future-proof, but problematic.

Let's look where this leads...

New York Condominiums | NYC Condos For Sale | New York Apartments | CBS Real Estate Market - Eye on Real Estate - Mozilla Firefox

File Edit View History Bookmarks Tools Help

http://www.cbsrem.com/#

Clarity

New York Condominiums | NYC Cond...

Eye on Real Estate BETA
New York's Premier Property Listings
 Over 25,000 homes to choose from

PSG PROPERTY STRATEGIES GROUP

NEW DEVELOPMENT RENTAL LISTINGS SALES LISTINGS HUNTING LIST ACCOUNT LOGOUT HELP LIST YOUR HOME

Search Keywords/Zip → [] → [X]

State: New York
 Region: New York Metro
 Borough: Manhattan
 Neighborhood: Midtown

Properties Found: 868
 Sort By: Size

\$1,395,000	br
\$1,195,000	br
\$1,060,000	br
\$1,950,000	
\$1,660,000	
\$2,085,000	
\$1,885,000	
\$2,100,000	
\$1,485,000	
\$1,660,000	
\$2,035,000	
\$1,100,000	
\$3,750,000	
\$15,000,000	
\$6,250,000	
\$3,599,000	
\$5,000,000	
\$2,750,000	
\$11,000,000	
\$4,000,000	
\$2,950,000	
\$4,000,000	
\$6,795,000	

Actual Case:

- Brokerage provides MLS data feed to a 3rd party, “controls” display (accuracy), and gets leads.
- TV Station gets a listings website
- Isn't this a clever 'win win'?
- Is this our intent with this policy?
- *How much display control is enough?*

Read www.cbsrem.com

Facebook / Immobel Example

The screenshot shows a Facebook browser window with the URL <http://www.facebook.com/Prudential Georgia Realty>. The page header includes the Facebook logo, a login form with fields for Email and Password, and a "Log In" button. Below the header is a "Sign Up" button and the text "Facebook helps you connect and share with the people in your life."

The main content area features a blue sidebar on the left with a "Ranked #1" badge and a "Prudential Georgia Realty" logo. The main section is titled "Prudential Georgia Realty ▶ Search Properties in 13 Languages" and includes a "Like" button. Below the title is a row of 13 national flags representing the supported languages. The search interface includes the following fields and options:

- Location:** A text input field for "City, State, Country, Zip Code".
- Property type:** A dropdown menu currently set to "Residential For Sale".
- OR Search with map:** A link to search with a map.
- Price Range:** Two input fields for price, a "USD" dropdown, and a "to" separator.
- Bathrooms:** A dropdown menu set to "Any".
- Bedrooms:** A dropdown menu set to "Any".
- Size:** Two input fields for size, a "sqft" dropdown, and a "to" separator.
- Lot size:** Two input fields for lot size, a "sqft" dropdown, and a "to" separator.
- Price high-to-low:** A dropdown menu for sorting results.
- Search:** A blue button to execute the search.
- Listing Alerts:** A blue button to set up alerts.

On the right side, there is a "Create a Page" button and a section titled "Real Estate Agents in Nearby Cities" listing:

- Atlanta Real Estate Agents** (1024 near Atlanta)
- Marietta Real Estate Agents** (223 near Marietta)
- Alpharetta Real Estate Agents** (155 near Alpharetta)

A "More" link is provided below the list. At the bottom of the page, there is a "Welcome to the Prudential Georgia Realty fan page for Facebook" message and the "Clarity" logo.

Some jumped the gun on SM & MLSs are behind on compliance

Breaks lots of rules ...

- Notify MLS of IDX Site
- Show MLS as Source
- Terms of Use, Copyright, Disclaimers
- Maximum # listings
- Audit trail of consumer activity
- Some MLSs' rules: co-branding

facebook

Like Be the first of your friends to like this.

Back Listing Search

Prudential Georgia Realty
phone: 770.992.4100
Contact agent

Location: 1337 Peachtree Battle Ave Atlanta, Georgia 30327

List Price: \$2,495,000

Property type: Residential For Sale, Single Family Home, 7 bedrooms, 7 full baths

MLS#: 3139679

Lot size: Dimensions: 0.5785

Other SM sites break rules:

- Refresh rate
- Comments on “opt-outs”



SM: Where do we go from here?



“Social Media” (SM)

- Define participant “control” much better (when it’s really “enough” isn’t it the agent’s own site?)
- Improve the optional VOW branding rule and make it mandatory for both IDX / VOW (can we make Facebook co-brand properly!?)
- Can we anticipate every other 3rd party use of the data / display and address it via policy?

We could spend days working on this and maybe find there’s no solution - but for now...

we only have about 5+ minutes to talk about RSS!

What is an RSS Feed



- RSS stands for “Really Simple *Syndication*”
- How it works: an XML file (like RETS) of IDX listings sits on a web server – but unlike RETS, RSS doesn’t require login!

```
<rss><channel><title>The”good”</title>
<item>
  <title>1 Test Ave - 3 BR - 2BA - $221,999</title>
  <link>http://my idx site.com/listing.asp?id=12122</link>
  <description><p>A charming fixer upper...</description>
  <pubDate>Monday, 24 Oct 2011 12:00</pubDate>
</item>
<item>
  <title>123 Main Street - 2 BR - 1BA - $199,999</title>
  <link>http://my idx site.com/listing.asp?id=12123</link>
  <description>[ANYTHING YOU WANT]</description>
```



I've already SEEN ugly RSS cases

- **The (possibly) “good”:** a few listings, not much info - mostly a notification to re-visit the IDX website.
- **The bad:** lots of listings, lots of fields, well-structured HTML in the description (to be *scraped* into a database or *inserted* into another website)
- **The ugly:** *all* the listings, *all* the fields, XML in the description (not even *pretending* to be for human use – see below:)

```
<rss><channel><title>Listings</title><item>
<title></title><link>http://my\_idx\_site.com/listing.asp?id=12123</link>
  <description>
<address>1 Test St</address> <city>Testville</city> <state>TN</state>
<price>199999</price>          <beds>5</beds>    <baths>2</baths>
<sqft>1234</sqft>....
  </description>
  <pubDate>Monday, 24 Oct 2011 12:00</pubDate>
</item>
</channel></rss>
```

Website Choice for updates:

<http://athomeinscottsdale.com/home-search/>
Provided by
Diverse Solutions



Dru Bloomfield

Realty ONE Group
7975 N Hayden Road, Suite A-150
Scottsdale, AZ 85258

CELL: 602-524-3128
FAX: 480-747-9675
www.athomeinscottsdale.com
dru@drubloomfield.com

Viewing: 85044 IDX RSS [Edit search](#)

Profile ▾ Searches ▾ Listings ▾ gandydanser@gmail.com Logout

Search

Results

[get email alerts](#)

Map

Details

Viewing: 1-3 of 127

Sort: Highest Price ▾

127 listings displayed

Type: Terrain ▾

12008 S Montezuma Court
Phoenix **\$3,995,000**



6 BED 8 BATH 8,500 SQ.FT
1.37 ac TOTAL LOT 11

12607 S 36th Street
Phoenix **\$2,795,000**



8 BED 8 BATH 8,450 SQ.FT
1.23 ac TOTAL LOT 17

3604 E Kachina Drive
Phoenix **\$2,495,000**



7 BED 9 BATH 7,620 SQ.FT
21,375 sq ft TOTAL LOT

12431 S 36th Street
Phoenix **\$2,395,000**



6 BED 8 BATH 9,000 SQ.FT

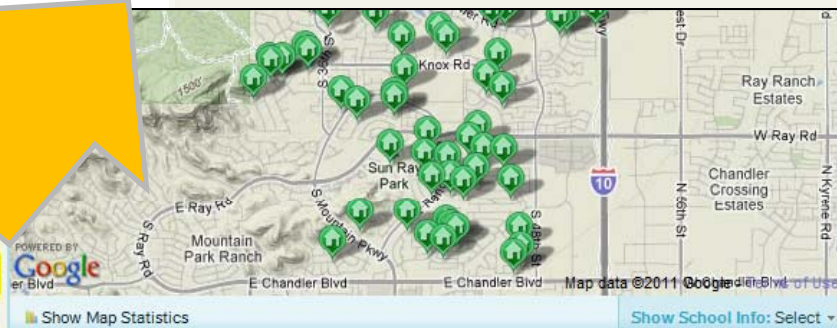
GET PROPERTY UPDATES VIA [RSS](#) OR [Email](#)

12431 S 36th Street

Phoenix

\$2,395,000

GET PROPERTY UPDATES VIA [RSS](#) OR [Email](#)



iGoogle



ADD GADGETS

Home

Top Stories

http://www.gstatic.com/ig...

Dictionary.com Word of t...

Weather

Movies: 85259

washingtonpost.com - T...

NYT > Home Page

Forbes.com: News

ESPN.com

Sports News : CBSSport...

USATODAY.com News

CNN.com

Fool.com Headlines

Sports Scores

85044 IDX RSS

85044 IDX RSS

\$249,900 :: 3913 E Keresan Street, Phoenix AZ, 85044

\$200,000 :: 14222 S 44th Street, Phoenix AZ, 85044



ARMLS

4 beds, 2.00 baths

Home size: 1,890 sq ft

Lot Size: 11,914 sq ft

Added: 06/09/11, Last Updated: 10/18/11

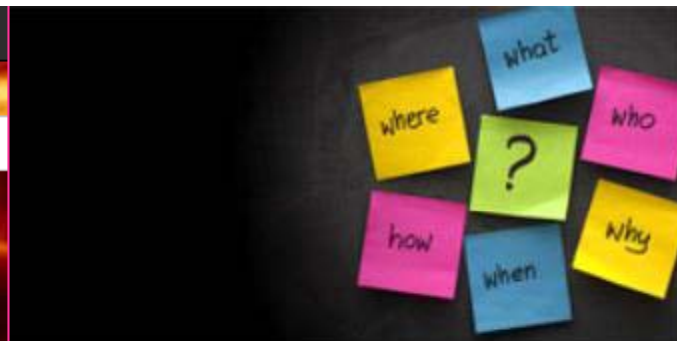
Property Type: Single Family - Detached, Residential

MLS Number: 4597951

Tract: Mountain Ranch Estates

The price of this listing was last increased on 10/3/2011 by 3%

“Normal” anticipated RSS use - Google Reader

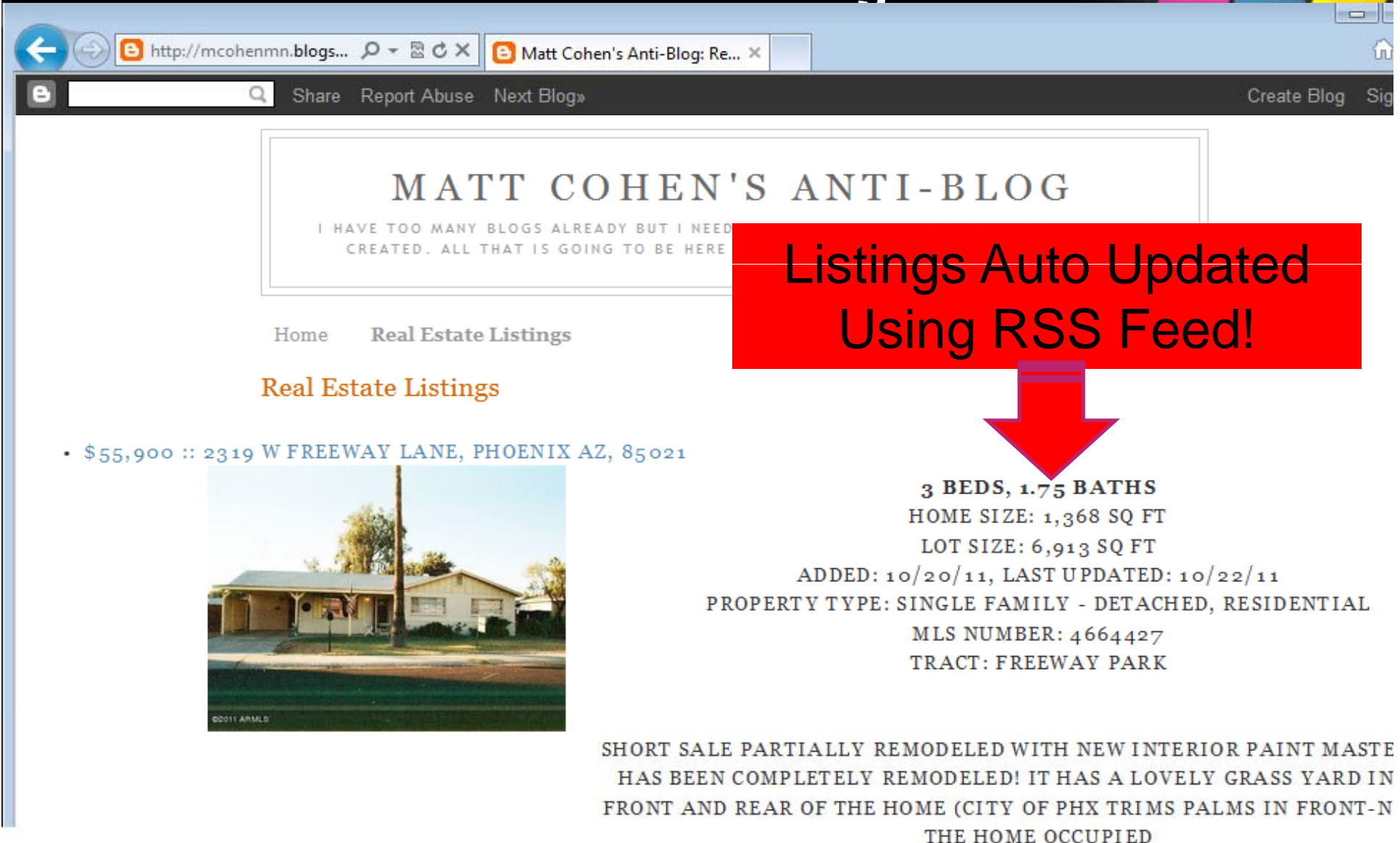


Distribution but not like an Email



- RSS is NOT like Email. Both transport content but...
- Who reads an Email? [recipient!]
- Who uses an RSS file? [anyone!]
- Email: individual browses content
- RSS: machine-readable data on the Internet for computers to grab and use
 - **ANYWHERE** (any site)
 - **IN ANY FORMAT** (no disclaimers, branding, etc.)
 - **Agent has NO control over display**

'Wide open' search RSS feed from that agent's site on MY blog!



http://mcohenmn.blogs... Matt Cohen's Anti-Blog: Re...

Share Report Abuse Next Blog» Create Blog Sig


MATT COHEN'S ANTI-BLOG

I HAVE TOO MANY BLOGS ALREADY BUT I NEED
CREATED. ALL THAT IS GOING TO BE HERE

Home Real Estate Listings

Real Estate Listings

- \$55,900 :: 2319 W FREEWAY LANE, PHOENIX AZ, 85021



©2011 ARMLS

3 BEDS, 1.75 BATHS
HOME SIZE: 1,368 SQ FT
LOT SIZE: 6,913 SQ FT
ADDED: 10/20/11, LAST UPDATED: 10/22/11
PROPERTY TYPE: SINGLE FAMILY - DETACHED, RESIDENTIAL
MLS NUMBER: 4664427
TRACT: FREEWAY PARK

SHORT SALE PARTIALLY REMODELED WITH NEW INTERIOR PAINT MASTER
HAS BEEN COMPLETELY REMODELED! IT HAS A LOVELY GRASS YARD IN
FRONT AND REAR OF THE HOME (CITY OF PHX TRIMS PALMS IN FRONT-N
THE HOME OCCUPIED

Uncontrollable Syndication?



There is no practical way to restrict RSS feed use - no way to have listing display removed from, or corrected on, a non-member's site once we put the data file out there – and no way to prevent the data from being re-compiled into someone else's database.

RSS: Policy Today



RSS is inconsistent with current IDX policy:

“18.2.7 ... an IDX site may not distribute, provide, or make any portion of the MLS database available ...”

Note: RSS is the tip of the iceberg – i.e. “pubsubhubbub” and “AMQP”. If we change policy, we’ll need a more general policy than “RSS”.

RSS: Where do we go from here?



RSS Policy options:

- Don't allow RSS (et al.) at ALL (*status quo*)

OR

- Add reference to RSS and open up uncontrolled syndication and data use (*PAG recommendation*)

OR

- Allow with restrictions (of limited effectiveness!)
 - Limit search types (no 'latest' or others allowing re-compilation)
 - Limit scope - # of listings (limited effect over time – the feed updates)
 - Limit data field content (make scraper visit the IDX website to scrape)
 - Limit structure of data (increases difficulty of scraping...slightly)
- **Is there ANYTHING more effective!?**

Practical Question: Who Pays?

Who is going to pay for you to massively expand your data feeds & compliance?



Who is going to pay fines for non-compliance?
Mark Zuckerberg? ;-)

Thank you!



If there are *solid* policy solutions for the policy and business problems I've outlined, then let's approve "Social Media" and "RSS" (et al.) policy changes in Anaheim. If not, then how can we?

Thank you!

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The Impact on the MLS - Responsibilities

John Rees

Callister Nebeker & McCollough

Proposed MLS rule changes and MLS risk management



- Concerns/background
 - Proposed expanded distribution and availability of listings to non-participants
 - Syndicators, providers of RSS feeds, franchisors, others
 - MLS is
 - aggregator of MLS listings—manages the listings (valuable assets) for many participants
 - gatekeeper—controls where IDX listings go
 - Distinction between IDX listings and participant only listings

Proposed MLS rule changes and MLS risk management



- Concerns/background
 - Consent
 - MLS policy statement 7.85
 - “Use of listings and listing information by MLSs for purposes other than the defined purposes of MLS requires participants’ consent”
 - State law
 - MLS rules need to cover consent for all uses of listing content by participants
 - Litigation generates case law; case law gives guidance
 - These are issues without much guidance

Proposed MLS rule changes and MLS risk management



- Four potential areas of risk
 - Contract
 - Tort
 - Regulatory and state law
 - Compliance with NAR rules

Proposed MLS rule changes and MLS risk management



- Four potential areas of risk
 - Contract
 - Contracts with potential obligations/liability
 - MLS rules and regulations
 - IDX rules; VOW rules
 - Other provisions
 - Contracts with participants
 - Participation agreements
 - Contracts with vendors
 - License agreements
 - What risk if an MLS fails to perform its obligations under a contract?
 - Fails to enter into reasonable contracts?

Proposed MLS rule changes and MLS risk management



- Four potential areas of risk
 - Federal and state law; regulatory
 - Federal intellectual property laws
 - Protecting the participant's interests
 - Participant compliance with state advertising rules
 - Participant monitoring of and responsibility for agents
 - What is the risk of an MLS as a facilitator of knowing non-compliance?

Proposed MLS rule changes and MLS risk management



- Four potential areas of risk
 - Tort
 - What is a tort?
 - Legal duty imposed without a contract
 - Negligence is a tort
 - Reasonable person standard
 - Does the MLS owe a duty to its participants?
 - Assuming there is a duty, what is the duty?
 - Compliance, monitoring, enforcement?
 - To what extent?
 - Gatekeeper, steward
 - Does the MLS have the resources to perform its obligations?

Proposed MLS rule changes and MLS risk management



- Four potential areas of risk
 - Implied obligations
 - Good faith and fair dealing under contracts
 - Implied duty to participants and their agents
 - May be more of a practical obligation than legal



The Challenges

Jim Harrison, MLS Listings

Greg Manship, Intermountain MLS

Major Components



- Adding Social Media as an authorized IDX display
- Adding RSS as an authorized IDX display
- Obligating MLS's and Participants to administer compliance with the modified rules
- Removing the right for Participants to allow IDX content on their web sites to be indexed by their Franchisors

Social Media and Mobile Device Amendments



- **Challenges:**

- Ensuring display complies with IDX rules
- Ensuring display is controlled by the participant
- Excluding listings from these sites or the address of listings when the listing participant has excluded them from the Internet, or from allowing for comments or AVMs
- Maintaining an audit trail of consumer activity on participant web sites
- Refreshing MLS downloads
- Not allowing for a redistribution of IDX data
- Required MLS disclosures to consumers

Adding RSS as an authorized IDX display



- **Challenges:** *(other than the overall lack of understanding that RSS is a transport medium and not a display medium)*
 - Requiring participants to control display and comply with MLS rules
 - Maintaining an audit trail of consumer activity
 - Allowing MLS to subscriber to participant RSS feeds for compliance purposes
 - Not allowing MLS Participants to use IDX-provided listings for any purpose other than IDX display
 - Not allowing IDX display acquired via RSS to be redistributed or to have any portion of it to be made available to any person or entity
 - Ensuring that consumers only use IDX data retrieved via RSS for their personal use and not for any commercial purpose

RSS Scenarios



- **The chain of custody brokers entrust to the MLS is broken!**
 - If MLS data is allowed to be redistributed via an RSS feed to entities without direct data agreements in place with the MLS, then the MLS has turned over irretrievable custody and ownership of data to persons or entities unknown.
 - The subscriber to an RSS feed will essentially be granted ownership of the data, with no prior knowledge on proper data use, data refresh and updates, as well as re-distribution constraints.
 - In addition, RSS Readers hosted by the largest technology players will claim ownership on the *presentation* of data as part of their product feature set. If they choose to co-mingle data from third-party sources along with broker listings, there is little recourse for brokers to block that distribution

RSS Scenarios continued



- **EXAMPLES:**

- Imagine your broker listings listed right next to a “Zestimate” or an advertisement from another broker soliciting contact based upon the details of your listing information.
- Imagine Consumers blogging about your listings without explicit permission at syndication sites.
- There will be no remedy or control to prevent continued distribution and re-distribution of listing data co-mingled with unauthorized or stale content to persons or places unknown. RSS is like a news article or email...once forwarded, chain of custody is gone!

RSS Scenarios continued



- **The enforcement of MLS IDX rules regarding misrepresentation and/or re-purposing of the MLS data becomes impossible.**
 - if MLS data is distributed to persons or entities unknown who do not have explicit data use agreements with the data source (i.e. the MLS or the Broker) these entities can manipulate or re-purpose the content with impunity. RSS technology opens the door for savvy users or websites to essentially export any IDX data; aggregate, store, and manipulate that data without any consent from the broker or MLS. In the hands of technology providers unaccountable to IDX data policies, the persons or entities receiving the data have no obligation to present or use the content in a manner defined by the policies. Without this agreement, the MLS cannot assert any governance or corrections. Any abuse or other use will have to be suffered in silence.

Display Controlled by Participant



- Any display of IDX information must be controlled by the participant, including the ability to comply with this policy and applicable MLS rules .
 - Controlled by the Participant or what? Certainly DISPLAY is controllable. But what people do with data they had pushed to them via RSS is NOT controllable.
 - How will Participant control Social Media?

Franchisor Challenges



- Syndication now falls on MLS for separate feeds to franchisors.
- Opt In/Opt Out
- Possible solutions being offered may not give brokers a choice on franchisor syndication.

Social Media and Mobile Continued



- **Solutions:**

- Implement at each MLS a new opt-out option: “Social Media/Blog yes or no”
- Implement into the policy: if social media posts are done within a display site, the posting must be within an “Application” and is NOT a wall posting.
 - An app can update via IDX rules, or can be a smart link to an IDX site, and an app can be locked down so that no one can comment on posts within an app
 - If a participant publishes someone else’s listing on a social media site, there is no way to keep people from commenting on it
 - Updating social media wall posts every 3 days is meaningless since wall posts scroll away during the day
 - Include required MLS disclosures within the app
 - An app can have the “Share” or “Retweet” function disabled

RSS continued



- **Solutions:**

- Don't attempt to define RSS as an IDX display..it's a transport utility, like RETS, FTP, HTTP, HTTPS, iFrame, etc
- Reinforce the fact that brokers can do whatever they want to do with their own listings, including allowing RSS feeds of their own data, but NOT other participants listings.
- Provide the real estate community broad based information regarding how RSS works and what risks to controlling their data exist once their data is acquired from their web sites via RSS

IDX for Franchisors



- Clearly all segments of the brokerage community were well represented on the PAG which made this recommendation.
- **BEST SOLUTION:** each MLS provide a broker opt-in selection in their system to give each broker the option to choose which third party sites they want to promote their listings on
- **NOT a GOOD SOLUTION:** allowing a listing syndicator to control this in their systems by providing only a GLOBAL opt-in...opt-in for franchisor display to all franchisor sites, and not allowing the broker to select which franchisor sites individually he wants to publish his listings on.



Possible Solutions

Cathy Holefelder, Heartland MLS

Recommendations for Changes to the Proposed Policy



- Remove RSS
 - RSS is a transport utility not a display
 - As stated earlier, displays from RSS feeds cannot be controlled or made compliant
 - Brokers can still use RSS to distribute their own listings
 - Provide your Participants broad based information regarding how RSS works and what risks to controlling their data exist once their data is acquired from their web sites via RSS

Recommendations for Changes to the Proposed Policy



- Allow for Participants to select website display and other electronic display separately so that they can maintain control over their listings.
 - Social Media/Blog = Yes or No
 - This could be dealt with in the 6th paragraph of the proposed policy statement.

Recommendations for Changes to the Proposed Policy



- Implement into the policy: If social media posts are done within a display site, the posting must be within an “Application” and is NOT a wall posting.
 - An app can update via IDX rules, or can be a smart link to an IDX site and an app can be locked down so that no one can comment on posts within an app
 - If a Participant publishes someone else’s listing on a social media site, there is no way to keep people from commenting on it
 - Updating social media wall posts every 3 days is meaningless since wall posts scroll away during the day
 - Include required MLS disclosures within the app
 - An app can have the “Share” or “Retweet” function disabled

Another Option?



- Do not adopt the proposed policy
 - Leave the IDX policy as it currently stands and do not require MLSs to provide IDX data for social media or other electronic display.

Recommendations for dealing with the Proposed Policy if passed



- Ensure that the proper filters are in place to prevent third party comments based on seller request.
 - While this might not have been a huge issue for websites it most certainly is in other electronic displays.
- Limit liabilities for you and your Participants through the allowed required notification.
 - Check with your attorney for the best language

Recommendations for dealing with the Proposed Policy if passed

- IDX for Franchisors
 - **BEST SOLUTION:** each MLS provide each broker the option to choose which third party sites they want to promote their listings on
 - **NOT a GOOD SOLUTION:** allowing a listing syndicator to control this in their systems by providing only a GLOBAL opt-in...opt-in for franchisor display to all franchisor sites, and not allowing the broker to select which franchisor sites individually he wants to publish his listings on.



Conclusions and Next Steps

Merri Jo Cowen, MFRMLS 2011 CMLS President



Quick Brainstorm

FRANCHISORS & SYNDICATION

Implementation



- Possible Options:
 - MLS creates own distribution method to Franchisors
 - Syndication partners create the methodology
 - Broker decision:
 - Individual selection of Franchisors?
 - All or none philosophy?