

# Principles of Competition



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The purpose of a listing service operated under the MLS® trade mark is the orderly correlation and dissemination of listing information to its members so that through cooperation in the marketing of property REALTORS® may better serve the buying and selling public. Member real estate boards and associations shall not undertake any activity or enact or enforce any rules which run contrary to these guidelines subject to any applicable laws, government statute, ordinance or regulation, and to any final decree of any court or administrative agency.

## **THEREFORE, MEMBER REAL ESTATE BOARDS AND ASSOCIATIONS MUST NOT:**

1. Fix, establish, suggest, maintain or control the commission rates or fees for MLS® or other listing services or any services to be rendered by members.

### **Interpretation I**

Reference to “fees” exclude charges by boards or associations to members for board or association services.

2. Fix, establish, suggest, maintain or control the division of commission or fees between cooperating members or members and non-members.

### **Interpretation I**

Boards and associations may require that listing brokers indicate the commission available to a selling broker with respect to a particular transaction and require that such compensation be paid by the listing broker unless the listing broker and selling broker have mutually agreed to alter said commission.

### **Interpretation II**

In those cases where the listing Broker is also the selling Broker and the listing Broker is reducing the commission rate or fee, require that the listing Broker disclose he or she is reducing his or her commission to all Brokers with competing offers to purchase, in order that such competing selling Brokers shall not be at a disadvantage and that the vendor shall receive the full benefit of competition from such selling Brokers.

### **Interpretation III**

Member boards and associations may arbitrate or mediate disputes regarding fees or commissions between brokers, persons acting on their behalf, or offices in connection with a specific transaction.

3. Require financial support of the Multiple Listing Service® operation by any formula based on commissions charged for the provision of real estate services.



4. Finance a Multiple Listing Service® by any formula based on sales price, unless that fee does not exceed \$400.00 as increased in accordance with any increases in the Consumer Price Index as published by Statistics Canada and experienced since January 2000.
5. Require or agree with a publisher or publication in which the board or association has no financial interest to refuse any type of advertising from members or non-members including refusals based on the commission rate or fees contained therein or recommend the type of advertising to be accepted by such publishers/publications.

#### **Interpretation I**

Member boards and associations may restrict advertising in board/association publications to advertising concerning real property and certain size limitations and minimum periods as necessary for the efficient operation of the publication provided such restrictions are applied uniformly to all potential advertisers.

#### **Interpretation II**

Member boards and associations may require advertising of a listing contain certain basic information relating to price and description of the subject property.

6. Prevent or restrict advertising by members of commission rates or fees, or advertising of for sale by owner or other consultative services, or offering or advertising of inducements, incentives, gifts, prizes, refunds or rebates.

#### **Interpretation I**

Advertising means advertising of any description including the posting and use of signs but board compilations of MLS® listings whether in an MLS® book or other MLS® data base are not included in the term “advertising” for the purpose of these Principles of Competition.

#### **Interpretation II**

Boards and associations may enforce advertising restrictions which relate to the use of trademarks owned by The Canadian Real Estate Association, provided that such restrictions shall not contravene any section of the Competition Act.

7. Generally restrict advertising by members or non-members unless the advertising is:
  - (i) False or misleading,
    - (i) Prohibited by law, or
    - (ii) Restricted at the request of the vendor.



### **Interpretation I**

Interpretation I of Section 6 above applies.

### **Interpretation II**

Interpretation II of Section 6 above applies.

8. Prohibit or discourage cooperation with non-members.

### **Interpretation I**

Boards and associations may restrict non-members from offering MLS® listings. Likewise, the board may restrict non-members from having access to MLS® services except through members cooperating on specific listings for which boards may charge fees for such MLS® services.

9. Limit or interfere with the terms of the relationship between members.
10. Require brokers or salespersons to work full time in real estate sales, brokerage or related industries as a condition of membership although membership may be terminated based on complaints that member(s) are proven not available to serve the public on a regular and consistent basis and/or in accordance with standards of competence and integrity necessary to serve the public.
11. Refuse membership in a board or association to any broker or salesperson unless they fail to meet uniform and reasonable financial and education criteria or standards or competence, integrity and character that are reasonably necessary for the protection of the public.

### **Interpretation I**

A board or association may require that all sales personnel in an office or related office become members of that board in those cases where one person in an office is a member of such board so as to avoid use of such board's services by non-members without payment.

### **Interpretation II**

Interpretation I of Section 8 above applies.

### **Interpretation III**

A board or association may refuse membership to applicants or expel members who have been convicted of a criminal offence that reflects on the integrity and character of the applicant or member.

12. Reject a listing submitted to the MLS® system by a member on the basis of price, commission rate or fees contained in the listing.



13. Prohibit or discourage a member from accepting a listing from a vendor preferring to give “office exclusive”.

It shall be the duty and obligation of member boards of The Canadian Real Estate Association to examine their Rules and Regulations to assure that they conform to this policy. The right of real estate boards and associations to use the certification and design marks of CREA may be terminated in the event of a failure to adhere to the Principles of Competition.



## PLEDGE OF COMPETITION

Member Boards and Associations of The Canadian Real Estate Association support free and open competition. We believe in the principles embodied in the Competition Act of Canada. Therefore, we adhere to Principles of Competition which include the following:

- Commission rates or fees members charge for services offered to the public, and the division of those fees among cooperating members, are solely the choice of those providing the services.
- A brokerage may offer any variety of services e.g. exclusive, open, MLS® listings etc. Boards and Real Estate Associations accept MLS® listings regardless of the price, commission rates or fees, or the division thereof.
- Advertising by members and non-members is subject to the discretion of the individual, as long as it is honest and lawful. We encourage creative, competitive choice in the services advertised to the public.
- The business relationship between broker members, their salespersons and non-members is theirs to determine. With regard to Board and Association membership, members may choose for themselves to work full or part time, as long as they remain available to serve the public on a regular basis and provided provincial enabling legislation does not otherwise authorize a limitation of such choice.
- All members are required to meet uniform and reasonable financial and educational standards. They are required to demonstrate integrity and character necessary to protect the public.

By using the MLS® and REALTOR® trademarks, all member Boards and Associations of The Canadian Real Estate Association proclaim our adherence to these principles, designed to preserve free and open competition.

