

	IDX (now)	VOW - NAR 2003 policy (challenged by DOJ)	VOWs – “wild” (9/05-present)	VOWs after settlement
Data available on web site				
Listing broker can opt out	Yes	Yes (selective – broker can choose which VOWs to opt out of)	No (rare exception was at least one state where license regulators determined VOWs were advertising and required listing broker permission)	No
Seller can opt out	Yes	Yes	No	Yes but probably impacts all Internet display, and requires form
Address included	Yes, unless seller withholds	Yes, unless seller withholds	Yes	Yes, unless seller withholds
Active listings available on site	Yes	Yes	Yes	Yes
Sold listings available on site	Local option	Yes	Yes unless MLS prohibited their display via traditional means	Yes, unless non-disclosure state and MLS also restricts display via traditional means
Other off-market listings (e.g., expired, withdrawn) available on site	Local option	Local option, but any restriction had to be imposed on traditional means	Yes unless MLS prohibited their display via traditional means	Local option, but any restriction has to be imposed on traditional means
Confidential fields available on site (e.g., compensation, showing instructions, seller contact info)	Local option	Local option, but any restriction had to be imposed on any distribution by traditional means	Yes unless MLS prohibited their display via traditional means	Local option, but any restriction has to be imposed on any distribution by traditional means
Displaying broker can limit what is displayed	Yes, based upon ‘objective criteria’	Yes, based upon ‘objective criteria’	Probably	Yes, based upon ‘objective criteria’
Frequency of updates	1/7 days (some MLSs require more frequent)	1/7 days	Up to displaying broker	1/3 days

	IDX (now)	VOW - NAR 2003 policy (challenged by DOJ)	VOWs – “wild” (9/05-present)	VOWs after settlement
Display of another broker’s listing can include third-party advertising	Yes	Local option but any limitation also applied to displays by traditional means	Yes	Yes, branding and co-branding allowed if not deceptive or misleading
How data is displayed on the site				
Site must ID listing broker	Local option	Local option but only if MLS also requires it on traditional means	No unless MLS imposed requirement also on distribution by traditional means	Local option but only if MLS also requires it on traditional means
Site must ID listing agent	Local option	No	No unless MLS imposed requirement also on distribution by traditional means	Local option but only if MLS also requires it on traditional means
Displaying broker permitted to modify other brokers’ listings	Local option (almost all MLSs say “no”)	Local option but any prohibition also had to be imposed on all forms of listing display, including traditional ones	Maybe (but it would be MLS rule or Code of Ethics violation if misleading)	Local option but any prohibition also has to be imposed on all forms of listing display, including traditional ones
Displaying broker can display information from other sources beside listings of other brokers	Yes, if source of other data is identified	Yes, but MLS could impose requirement that source of other data be identified if same requirement is imposed on other forms of display	Yes (as long as not misleading)	Yes, but displaying broker must provide a means to receive comments about and remove inaccurate info. MLS can impose requirement that source of other data be identified if same requirement is imposed on other forms of display
Displaying broker must indicate source of listing data on site	Local option	Local option	No, unless MLS imposed requirement also on distribution by traditional means	Local option

	IDX (now)	VOW - NAR 2003 policy (challenged by DOJ)	VOWs – “wild” (9/05-present)	VOWs after settlement
MLS can limit number of listings in response to a search	Local option (“reasonable limits”)	Local option to limit to “reasonable number” but only if limit also imposed on traditional displays	No unless MLS imposed requirement also on distribution by traditional means	Local option, but number not smaller than 100 or 5% of database (whichever is less) and limit must also be imposed on traditional displays
Disclaimers required	Local option to impose “info deemed reliable but not guaranteed” and other “necessary” disclaimers	Local option but only if also required on traditional displays	No unless MLS imposed requirement also on distribution by traditional means	Local option but only if also required on traditional displays
Search co-mingling prohibited	Local option	No	No	Local option
Display co-mingling prohibited	Local option	No	No	Local option linked to search co-mingling – requirement to ID source
Display third-party comments or reviews next to other broker’s listings	Yes	Yes	Yes	Yes, but seller can request feature be disabled on all broker sites
Provide automated estimated valuation of other broker’s listings	Yes	Yes	Yes	Yes, but seller can request feature be disabled on all broker sites
Site’s relationship with the consumer				
How site must identify itself	Member broker ID’d “readily visible color and typeface” (some MLSs require clear branding by site broker)	Not specified	No requirement	As broker’s but co-branding allowed if not deceptive or misleading
Consumer relationship to broker	None required	“Lawful consumer-broker relationship” required	Consumer-broker relationship (but details unspecified)	“Lawful consumer-broker relationship” required
Relationship formalities	None required (though state law could trump)	Depends on state law (disclosures, agreements, etc.)	Depends on state law (disclosures, agreements, etc.)	Depends on state law (disclosures, agreements, etc.)

	IDX (now)	VOW - NAR 2003 policy (challenged by DOJ)	VOWs – “wild” (9/05-present)	VOWs after settlement
Displaying broker must have staff available to answer questions via phone or email	No	No	No	Yes (new requirement)
Consumer has to register with email address	No	Yes	No	Yes
Consumer must agree to terms of use	Some MLSs impose requirement	Yes	No	Yes
Consumer must acknowledge MLS’s copyright	Some MLSs impose requirement	Yes	No	Yes
Consumer must have unique ID/ password	No	Yes	No	Yes
Password expires	N/A	Yes (time not specified, unless MLS opts to specify)	No	Yes (time not specified, but MLS can specify period no shorter than 90 days)
Broker’s site must display a privacy policy	No	Yes	No	Yes
Displaying broker can refer consumer for a fee	Yes	Yes (but only if broker is not principally a referral model)	Yes	Yes (but pure referral model brokers no longer permitted in MLS)
MLS eligibility and enforcement				
Broker has to list or sell (or both) real estate	Local option	Maybe	No	Yes (according to new definition of participant – will impact IDX as well)
Broker must be a REALTOR®	Local option (applicable only if MLS allows non-REALTOR® participants)	No (applicable only if MLS allows non-REALTOR® participants)	No (applicable only if MLS allows non-REALTOR® participants)	No (applicable only if MLS allows non-REALTOR® participants)
Need to have a real estate brokerage license	Local option (but almost all MLSs require)	Yes (if required under state law to provide brokerage services)	Yes (if required under state law to provide brokerage services)	Yes (if required under state law to provide brokerage services)

	IDX (now)	VOW - NAR 2003 policy (challenged by DOJ)	VOWs – “wild” (9/05-present)	VOWs after settlement
Salespeople can have site	Local option	Yes (broker consent and accountability)	Probably	Yes (broker accountable)
Multi-office/ multi-MLS firms can ‘roll-up’ sites from many MLSs	Local option to limit display only to offices participating in this MLS	Only offices participating in this MLS may display (but firm can have ‘portal’ site)	Probably	Only offices participating in this MLS may display (but firm can have ‘portal’ site)
Broker must inform MLS of intent to establish site	Yes	Yes	No	Yes
MLS required to provide data feed	Yes (MLSs implement inconsistently)	Yes (MLSs implemented inconsistently)	No	Yes (NAR required to retain copies of complaints that an MLS does not comply and required to report MLSs that do not comply to DOJ)
MLSs held accountable to implement	To NAR	To NAR	To NAR	To NAR and DOJ
MLS required to allow broker to employ technology contractor	No	No	No	Yes new requirement with extensive terms
Who is permitted to use site	Consumers for personal non-commercial use	Consumers for personal non-commercial use	Consumers for purposes contemplated in general MLS rules	Consumers for personal non-commercial use
MLS can visit site to evaluate its compliance with rules	Yes	Yes	Maybe (some MLSs claimed they could)	Yes
Broker can operate more than one site	Local option	Not specified	Probably (not specified in rules)	Yes
Technology issues				
Broker must make attempts to prevent “scraping” of data from site	Yes	Yes	No	Yes

	IDX (now)	VOW - NAR 2003 policy (challenged by DOJ)	VOWs – “wild” (9/05-present)	VOWs after settlement
Broker must employ firewalls and other security measures	MLS may require, but not greater than MLS’s own	MLS may require, but not greater than MLS’s own	No	MLS may require, but not greater than MLS’s own
Broker must keep audit trail	Local option	Local option	No	Local option
MLS can charge for data feed	Local option (“costs should reasonably related to actual costs incurred by MLS”)	Local option (“costs should reasonably relate to the actual costs incurred by the MLS”)	Local option (costs are all over the board)	Local option (limited to “reasonably estimated actual costs incurred” by MLS)