

'Godspeed': Enforcement of NAR settlement changes shifts to MLSs

At the Realtors Legislative Meetings earlier this week, MLS executives were told they would be responsible for making sure real estate agents and brokers follow the new commission rules

BY [ANDREA V. BRAMBILA](#), Inman

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Multiple listing services will be responsible for enforcing the rule changes that are part of the National Association of Realtors' proposed antitrust settlement, an attorney from the 1.5-million-member trade group informed a group of hundreds of MLS executives at its midyear conference this week.

Deanne Rymarowicz, NAR's associate counsel, spoke at the MLS Association Executives Session of the Realtors Legislative Meetings in Washington, D.C., on Sunday.

She ran through some of the policy changes included in the settlement, which NAR has said MLSs will have to implement by Aug. 17, even before a November court hearing in which a judge will decide whether to give the deal final approval.

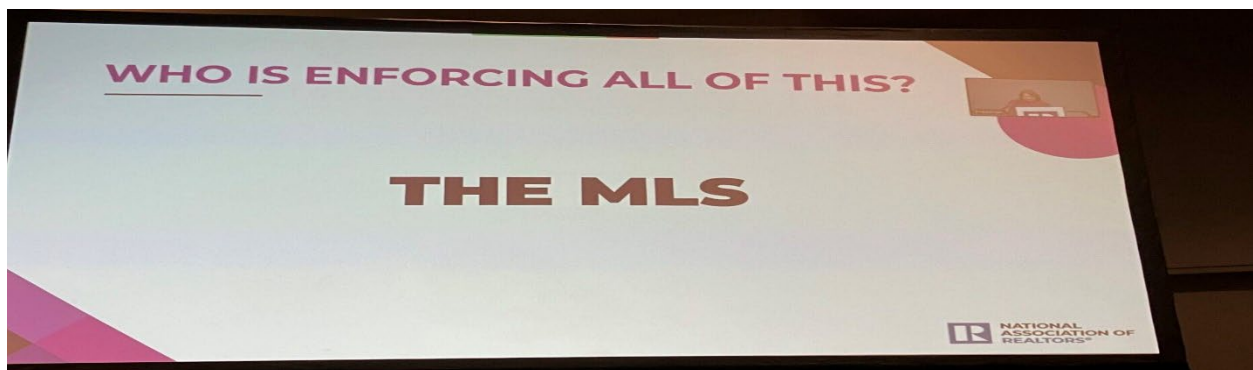
On Friday, [NAR informed its members](#) of key changes that will be required under the settlement, noting that the changes had been reviewed by its MLS Emerging Issues and Technology Advisory Board and adopted by the NAR Leadership Team.

Rymarowicz broke down the deal's [requirement for written agreements with buyers](#) and then told attendees what they'd been waiting for.

"Alright, here's the big question from all of you in the room: Who's enforcing all of this?" she said, spurring laughter from some attendees.

"It's you. The MLS will be responsible for enforcing the rule regarding written agreements like your MLS already enforces the rules that you have in place. It will be a complaint-driven process just like any rule that you have in place.

"Now, importantly, the MLS is not required to receive a copy of the written agreement, but it can request it as a matter of its local enforcement. So that is up to your MLS whether or not they want to receive a copy of that written agreement."



Slide from NAR Associate Counsel Deanne Rymarowicz at the MLS Association Executives Session of the Realtors Legislative Meetings in Washington D.C. on May 5, 2024

“Good luck, Godspeed,” Rymarowicz said at the end of her presentation, prompting more laughter.

After the session, Merri Jo Cowen, CEO of Stellar MLS in Florida, which has 84,000 subscribers, told Inman she needed more information.

“[It’s] still unclear on what our role as an MLS is when it comes to enforcing the requirement for the buyer broker agreement prior to showing,” Cowen said. “Need more guidance from NAR.”

Cowen came to the session knowing her MLS would be responsible for changes to its data fields related to the settlement, including the deal’s prohibition against putting buyer-broker compensation in the MLS.

Noting that dealing with the changes had been “stressful,” she said removing the compensation field was pretty straightforward, though she’s trying to figure out how to add a new seller concession field.

She said she personally would rather not have the new field “due to liability if it [is] misconstrued to be a replacement for the compensation fields,” but her subscribers are asking for it.

Right now, Stellar MLS has a concession field for closings with a pick list that she’s not planning to change, but not for inputting a listing into the MLS. She wants to know if she can add buyer broker compensation to a pick list there.

“We don’t want to leave room for creativity,” Cowen said. She said she wants to hew as close to the settlement as possible so as to not leave room for any liability for anyone.

According to Cowen, many of her subscribers are perplexed about the settlement. But, she pointed out, sellers can still pay the buyer agent — just not through the MLS.

“Nothing is really changing,” she said. “Just pick up the phone rather than looking for a workaround.”

Third-party companies have reached out to Cowen offering her ways to aggregate compensation outside of the MLS, and her answer is a vehement “No!” and “Don’t use my data,” she told Inman.

Cowen said she attended the [joint workshop on real estate competition](#) hosted by the U.S. Department of Justice and the Federal Trade Commission in 2018 and knew back then “this was going to come back around.”

A giant question hanging over the industry is whether the DOJ will weigh in against the NAR settlement, as it has against the MLS PIN settlement in another antitrust commission case known as [Nosalek](#).

Regardless, Cowen believes NAR will implement the settlement changes no matter what because otherwise, the association would remain open to litigation.