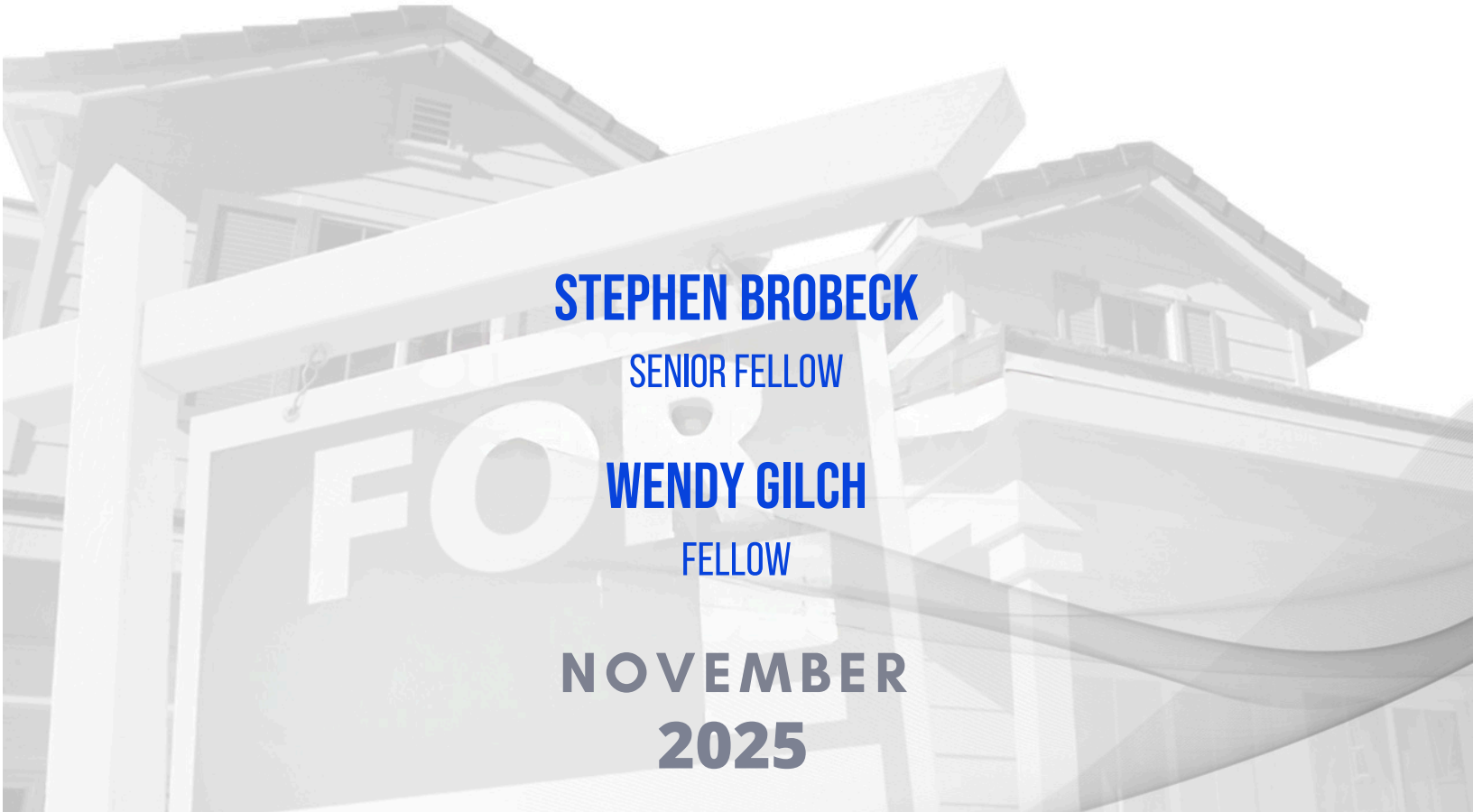
CONSUMER POLICY CENTER

THE HOMEBUYER EXPERIENCE:
COMMISSIONS AND CONTRACTS



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The settlement of two class action lawsuits in March 2024 changed how real estate agents sold homes. Beginning in August of that year, sellers were no longer required to post offers of buyer agent compensation on multiple listing service (MLS) websites, allowing both sellers and buyers greater opportunities to negotiate this compensation. Also, before being shown any homes, buyers were required to sign a contract with their agent that included a financial obligation to compensate that agent.[1]

At the time, those inside and outside the industry did not agree on likely outcomes. Most notably, some thought that rates would rise somewhat while others predicted that over time, they would decline by 20-30 percent.[2] Over one year later, this report analyzes these impacts related to the experience of homebuyers with buyer agents. The analysis is largely based on "mystery shopper" interviews with 281 buyer agents.

Introduction

For many decades, critics including the Federal Trade Commission and U.S. Department of Justice have complained about the lack of price competition in residential real estate markets. They have shown that commission rates are relatively high and uniform regardless of the experience, competence, and efforts of agents on individual home sales.[3] By the second decade of the twenty-first century, many critics believed that the most practical and effective way to introduce price competition for broker services was to completely separate ("untie," "uncouple," "decouple") seller and buyer commissions so that sellers and buyers would compensate only their own agents.[4]

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[1] National Association of Realtors, What the NAR Settlement Means for Home Buyers and Sellers (May 24, 2024).

[2] In 2024, a couple industry leaders told us privately they thought rates would increase. Other experts thought they would not change much. Law professor Tanya Monestier undertook research to demonstrate and challenge the ineffectiveness of the settlement (2024 Objection to the Proposed National Class Action Settlement with the National Association of Realtors and to Plaintiff's Request for Attorney Fees and Guide to Understanding the Objection). We had predicted that over time rates would decline by 20-30 percent. So did a well-known consultant to investors who was widely quoted in the news media. Differences in rate predictions largely reflected expectations about the extent of agent work-arounds and their success. Several economists studying a residential real estate marketplace where agent compensation was completely "decoupled" have predicted that commissions could decline by half. Recently (October 2, 2025), RISMedia reported that a Boston College economics professor had said that, in his own words, "analysis [of decoupling] suggests a potential 50% decline in consumer commission payments." Gi Heung Kim, "The Equilibrium Impacts of Broker Incentives in the Real Estate Market," Working Paper, University of Pennsylvania (April 2, 2025).

[3] See especially: Federal Trade Commission, The Residential Real Estate Brokerage Industry: The Butters Report (December 1983). Competition in the Real Estate Brokerage Industry: A Report by the Federal Trade Commission and the U.S. Department of Justice (April 2007). See also: Borys Grochulski and Zhu Wang, Real Estate Commissions and Home Search Efficiency (Federal Reserve Bank of Richmond Economic Brief, March 2024).

[4] See note 13 in the following document for a list of several academic researchers who had concluded that decoupling would facilitate greater price competition. Comments of Stephen Brobeck, Executive Director, Consumer Federation of America, Before the Department of Justice-Federal Trade Commission Public Workshop on Competition Issues (June 5, 2018).

In 2019, two class action lawsuits were filed that led to a 2023 jury verdict which found the National Association of Realtors (NAR) and major real estate companies guilty of violating antitrust laws. In March of 2024, plaintiffs and defendants announced a settlement of the two lawsuits with a financial penalty and new industry rules that went into effect in August of that year. It was widely recognized that this settlement represented a compromise in which commissions were not completely separated, allowing continued seller compensation of buyer agents.[5]

Over the past year, many have sought to understand whether commission rates have changed at all. Ironically, that determination was especially challenging because the settlement, by preventing MLSs from collecting data on buyer agent commissions, cut off the major source of data about these prices. Nevertheless, a consensus has emerged that in the past two years average rates have changed little. Initially rates declined somewhat but more recently, have returned to the average level before the 2023 jury decision. This consensus is based to a large extent on Redfin reporting of data related to their own sales.[6]

There has been little attention, however, paid to any variation in rates. Do the broad averages hide differences in commission rates between individual agents, brokerages, and metropolitan areas. If significant variation existed, despite uniform averages, might there have been some increase in broker price competition? Just as important, what has been the impact of the settlement on any efforts of buyers and sellers to negotiate buyer agent compensation?

These questions are the central focus of this report. But it also addresses other related issues:

- Are brokerages and their agents requiring buyer clients to sign contracts before they are shown properties? Are any efforts being made to enforce this requirement?
- What are the most promising policies and strategies for increasing price competition that no-one believes to be vigorous?
- How can buyers and sellers best take advantage of opportunities provided by the settlement, and how they can they avoid its risks?

The report is based largely on "mystery shopper" interviews with 281 buyer agents. These agents were from the most active brokerages in 26 diverse metropolitan areas. The report begins with a discussion of the methodology underlying these interviews. It continues by reporting findings of the interviews. The implications of these findings, in relation to public

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[5] There was widespread coverage by major media and the trade press of these events. For a brief summary see: Debra Kamin, "Judge Approves $418 Million Settlement That Will Change Real Estate Commissions" (New York Times, April 23, 2024). For blow by blow accounts, see articles in the trade press, especially Inman News, Real Estate News, RISMedia Daily News, and HousingWire Daily.

[6] Lily Katz, "Real Estate Commissions Haven't Changed Much Since the NAR Settlement Took Effect," Redfin News (May 16, 2025). The most recent RISMedia survey on rates and other issues reported similar results: Jesse Williams, Back to Business: RISMedia's 2025 Contract & Commission Study (September 29, 2025). For various opinions as to why rates have not changed much see: Nicole Friedman, "Why a Landmark Settlement on Realtor Fees Hasn't Cut Costs," Wall Street Journal (August 23, 2025).

policy, are then considered. That discussion is followed by advice to home buyers and sellers.

Methods

Buyer Characteristics: In interviews from July to September 2025, we tried to replicate the experience of a buyer, who had some awareness of recent industry changes, evaluating an agent they were considering to hire. The buyer was part of a couple that would move into town in two months and wanted to work with the agent for a couple weeks before visiting the area to view properties. The couple was interested in purchasing a home or condo, depending on the city, with a sales price somewhat above the area median ($400,000 to $700,000 range). They would pay cash. They expressed interest in areas where a Zillow search revealed a relatively large number of properties in their price range.

Information Sought: The buyers sought information about buyer agent experience, compensation, and contracts, especially their flexibility. Interviews usually lasted 15-20 minutes. The two researchers each tested the proposed method in a separate market by calling a number of buyer agents that were not included in the final sample.

Confidentiality: The decision was made to treat agent comments confidentially. No information in this report would allow anyone, except possibly the agent, to identify the source. And data identifying individual agents would never be released.

Selection of Areas: The sample of 281 buyer agents was intended to represent active agents from 26 diverse, large metropolitan areas. The areas were Albuquerque (NM), Atlanta (GA), Baltimore (MD), Birmingham (AL), Boston (MA), Buffalo (NY), Charlotte (NC), Chicago (IL), Cincinnati (OH), Dallas (TX), Denver (CO), Hartford (CT), Houston (TX), Indianapolis (IN), Jacksonville (FL), Kansas City (MO), Miami (FL), Minneapolis (MN), Oklahoma City (OK), Phoenix (AZ), Pittsburgh (PA), Portland (OR), Sacramento (CA), Salt Lake City (UT), San Diego (CA), and Seattle (WA). The areas selected overlapped the 35 areas, studied by one author in 2020, to allow comparisons over time.[7]

Selection of Individual Agents: In each area, 8-15 agents were selected from the most active brokerages. To help this identification, we reviewed 150-200 recent sales, listed consecutively, in each area. With one exception, each agent in an area represented not only a different brokerage but also a different company.[8] We called a large majority of brokerages (emailing the remainder) to request assistance from one of their agents. We usually received a response. When we did not, we called an active agent (usually at least 10 sales in the past year) from that brokerage. We received information through a phone interview from almost all agents (and through emails from the remainder).

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[7] Stephen Brobeck, Real Estate Commission Rates in 35 Cities: Uniformity and Variability (Consumer Federation of America, April 2022).

[8] Two different brokerages both operating under the same brand.

Select Characteristics of Agents: Data collected from the agents and from major portals[9] indicated there was a broad range of their experience and their success, as the two tables below indicate.

Table 1: Years Experience as a Licensed Agent (n=271)

Years	Percentage
0-4	19.9
5-9	26.2
10-14	16.2
15-19	17.0
20-29	14.8
30 and above	5.9

Table 2: Number of Agent Home Sales in Past Year (n=278)

Number	Percentage
0	10.4
1-4	16.5
5-9	19.1
10-14	11.8
15-19	9.0
20-29	12.9
30-39	5.8
40 and above	14.4

Both tables suggest highly varied responses by brokerages to our request for an agent. We were somewhat surprised that some agencies took this request very seriously, referring us to one of their most experienced realtors while other agencies assigned us to one of their least experienced agents. It seems likely that brokerages weighed positive factors such as our interest in a home priced above average for which we would pay cash against negative factors, such as our call out of the blue from someone out of town, in making their decision. A number of agents said that almost all of their clients were local referrals.

Benefits: In most agent surveys, the sample is largely self-selected. A very large number of agents or brokers are contacted and given the opportunity to respond. A relatively small percentage do so. It is not entirely clear who these agents are.[10] For example, might they

[9] Zillow, Homes.com, and Realtor.com.

[10] For example, the sample in a recent RISMedia survey (cited in note 6) was 623 individuals who responded to invitations sent to 130,000 individuals.

overrepresent companies that urged their agents to respond? Furthermore, agents are aware that they are being surveyed so may bias their responses. For example, if they are asked whether they comply with rules and regulations, they may tend to respond that they do. Or if they are asked what rates they charge, their response may reflect their desire either to show that rates have changed or have not depending on their view as to what benefits them, their company, or the industry.

Our survey tried to minimize these biases. It attempted to select agents recommended by the most active brokerages in 26 major metropolitan areas. (That excluded boutique and discount firms, except for Redfin.) It seemed likely that the recommended agents would tend to conform to the expectations of their brokerages and larger brands (e.g., Coldwell Banker, Keller Williams). We believe the interviews provide a good snapshot of how major national and regional firms are now communicating with individual buyers through its agents.

Limits: The interviews reported what agents told prospective buyers, not the actual practice of these agents. For example, many agents may have tried to hide the extent to which they "cooperated," or perhaps "colluded," with listing agents. Moreover, some agents were not eager, or even refused, to discuss some issues. For instance, for some agents we had to be persistent in asking whether they would lower their compensation if a seller insisted on it. Furthermore, as reasonably well-informed buyers, but not as experts, we felt limited in the extent to which we could probe. For example, when buyer agents assured us that we would not have to pay any of their commission, we refrained from asking, isn't this compensation part of the check I would eventually write to purchase the property? Moreover, when some agents learned that we had not singled them out, but instead were shopping around for an agent, they were less interested in answering all of our questions.

Findings

Compensation

All agents quoted a commission representing a percentage of the sale price. No interviewed agents quoted a dollar price or a dollar fee.

Nearly all 269 responding agents (95%) quoted a commission rate between 2.5% and 3%, with nearly three times as many agents charging 3% than 2.5% (see Appendix A). Several agents said they were charging the "standard" or "usual" rate in their area, evidence of price-fixing. Only one agent charged more than 3% -- an Albuquerque agent said their rate was 4%. Two-thirds of the rates under 2.5% were quoted by Boston agents. The typical buyer agent rate in Denver was 2.8% while in Minneapolis it was 2.7%.

There is evidence that more agents are trying to charge 3% today than three years ago. We compared the percentage of all quoted rates that were 3% in this study with those found in a 2022 study (with a much larger sample) from the same 20 cities.[11] In this period,

[11] Brobeck, 35 Cities, loc. cit.

the percentage of 3% rates increased from 40% to 64%. One Minneapolis agent acknowledged that "some brokers have raised their rates."

This increase may reflect the desire of most agents, and the industry in general, to preserve traditional 2.5-3 percent buyer agent rates. Given the new ability of both sellers and buyers to negotiate these rates, some agents may be effectively charging a **risk premium** to help ensure the continuation of pre-settlement rates. Surveys by Redfin and others suggest that average rates were roughly the same in both time periods.[12]

There is a remarkable homogeneity of quoted rates in individual metropolitan areas, much more so than in the country as a whole. As Appendix A shows, in 12 of the 26 cities, at least 90% of quoted rates were the same; in 16 of the cities, at least 80% were the same. The most prominent exception was San Diego, where no one rate exceeded 40% of the total rates.

This finding is consistent with that of earlier studies. It suggests that local agent cultures exert a powerful effect on rates. Before the settlement, rate uniformity was greatly assisted by the mandatory rates published by local MLSs. All agents could see what sellers (and their listing agents) were offering. Today, information flows within the industry about commission rates are more complex. But the private communications between listing agents and buyer agents on individual sales likely exert a powerful effect on the entire local marketplace. Listing agents do not want to gain the reputation of approving lower buyer agent rates, which would encourage buyer agents to steer clients away from them.[13] Also, almost all listing agents are buyer agents on other sales so have an interest in maintaining current buyer agent rates.

Compared to marketplaces for other services, the uniformity of rates in national and local residential real estate marketplaces is unusual. Prices for banking, insurance, accounting, legal, auto repair, home repair, and personal care services, for example, vary much more in local areas.[14] These prices vary not only because of differences in the competence, reputation, and effort of providers but also because of competition – the desire of individual providers to maximize profits (or market share) rather than preserving a uniform price.

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[12] See note 6.

[13] Research has documented steering: See: PJ Barwick, PA Pathak, M Wong, "Conflicts of Interest and Steering in Residential Brokerage," American Economic Journal: Applied Economics (July 2017). JM Barry, W Fried, JW Hatfield, "Et Tu Agent? Commission-Based Steering in Residential Real Estate," Iowa Law Review (May 2025). The examples they cite represent the tip of the iceberg. The threat of losing a sale by not "cooperating" with other agents on rates pervades the industry, helping account for near-uniform rates.

[14] While there are exceptions, numerous surveys, including those of consumer groups such as Consumer Reports and Checkbook Magazine, reveal this pricing variability. And when the charges depend on the work of a single individual, the prices tend to vary the most, in part because they often reflect time spent providing the service.

It is very difficult for buyers to negotiate lower commission rates. Buyers who try to do so are met with a barrage of arguments. The most important was that this negotiation was not necessary because sellers pay the buyer commission.[15] Typical statements were:

- "90-99 percent of sellers in our market [expressed as a range or single figure] pay the buyer agent commission." Twenty-one agents said this, with many indicating the highly improbable figure of 99%.
- "None of my buyers has ever paid a buyer agent commission." Twenty-seven agents said this.
- The buyer won't ever pay" – 17 agent mentions. Several said they would write this guarantee into the contract.
- "I charge zero dollars or zero percent for working with buyers. I will be compensated by the seller." – several mentions.

Agents offered reasons for this seller willingness:

- "Three percent is the industry standard."
- "If sellers don't offer a fee, it discourages buyer agents from showing a home."
- "If the seller is not willing to pay the broker fee, the house could be less attractive."
- "Typically sellers pay because they don't want to be at a disadvantage."

Another approach, each voiced by several agents, focused on themselves. They can be summarized as:

- I need to ensure that I am compensated for my services. As one Buffalo agent said: "Why would I want to show you a house if I won't get paid?"
- If I negotiate a lower rate and the seller offers a higher rate, the new rules say that I cannot accept the difference.
- I'm being tough now to show that I will be tough in negotiating with the seller.
- I won't sign a contract with a seller if they do not agree to a 6% commission.

Still other agents said that if the seller would not pay the agent's commission, the buyer could offer a higher price for the house – "we'll write it into the offer" -- and the seller could use the increase to compensate the buyer agent. This suggestion reveals the refusal of some agents to reduce their fee at the expense of their clients, whose costs would increase.

At this point in the conversation, it would take a very knowledgeable and determined buyer to point out that a higher rate will be less attractive to the seller and also ask the question, don't I end up paying this anyway when I buy the property?[16]

However, two-thirds of responding agents (171 of 254) said they would accept a lower rate from a seller than the rate the buyer agent had requested in the offer. A number of

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[15] Any buyer agent suggestion that the seller compensates them violates not only the Realtor Code of Ethics but also the 2020 DOJ-NAR agreement and subsequent DOJ requests that buyer agents not say that the services of these agents are free to buyers. The essence of the comment of one Cincinnati agent – "we get paid by the seller, you don't pay us anything" – was expressed by several agents.

[16] To their credit, a number of agents said upfront that we, the buyer, were obligated to compensate them if sellers did not.

buyer agents acknowledged that they had done this on occasion. This is further evidence that some agents are charging a risk premium to offset the greater ability of buyers and sellers to negotiate rates.

- Of those accepting a lower rate, nearly one-third (32.2%) would accept at least one percentage point less. Usually this was an agent seeking 3% who would accept 2%.
- Of all responding 254 agents, nearly two-fifths (39.4%) said they charged or would accept a rate of 2% or less. (This number included those agents who initially quoted rates of 2%).

Some buyer agents also acknowledged that, since the settlement, more sellers are insisting on a lower commission rate.

- One Birmingham agent noted that "very often the seller will pay only 2%" [in a 2.5% market].
- An Atlanta agent said that more sellers are not offering 3% [the going rate in the area].
- A Houston agent informed us that "half of sellers will pay the entire 6% but half will negotiate after the offer."
- A Jacksonville agent told us that "sellers are not always willing to pay all the commission."
- A Kansas City agent said that "some sellers offer less."

Was a willingness to lower rates related to the success of agents? One could conjecture that more successful agents might be less willing to adjust their rates faced with an inflexible seller. Correlating sales in the previous year with willingness to lower rates revealed no relationship at all. Of the 75 agents with 0-4 sales the previous year, 22.7% said they would not lower their rate. Of the 92 agents with at least 20 sales the previous year, 21.7% would not agree to a lower rate. (The percentage of those with 5-19 sales the previous year was much higher.) This finding is further evidence of the influence of an agent culture and broker policy that expects all agents, regardless of experience or success, to charge the same rate.

One could also raise the question whether the ability of sellers to negotiate buyer agent compensation was related to local marketplace conditions. Perhaps buyer agents in buyer markets – with large inventories, stable or declining prices, and relatively long times on market – would be less willing to lower their compensation for sellers they perceived as having less leverage in negotiations, while agents in seller markets would think they had less leverage. Our limited data suggest that if this factor played a role, it was not an important one. A large majority of buyer agents in seller markets – such as Atlanta, Denver, Miami, Phoenix, San Diego, and Seattle – were willing to negotiate lower rates with sellers. Conversely, only about half of agents in buyer markets – such as Birmingham, Cincinnati, Hartford, and Oklahoma City – were willing to negotiate these rates. In the eight markets where around one-half of agents were not prepared to negotiate compensation with sellers, two factors may have been influential. In four of these markets – Birmingham, Boston, Hartford, and Portland -- the typical rate was 2 or 2.5 percent. The industry-wide standard of 2.5-3 percent buyer agent rates may have helped check their willingness to

negotiate. Furthermore, seven of these eight markets – Birmingham, Charlotte, Cincinnati, Hartford, Kansas City, Oklahoma City, and Portland – were among the smallest in our sample and had relatively low agent/household ratios. Perhaps some agents in these markets felt less pressure to conform to the spirit of the class action settlement. But all this is speculation based on very limited data.

Contracts

The settlement required agents to obtain a signed contract before showing properties. In discussing the issue with agents, we expressed concern that we were being asked to sign a contract, with financial obligations, before getting to know the agent.

Nearly half of agents interviewed said they would offer a short-term ("touring" or "showing") agreement or would agree, if we were dissatisfied, to terminate the contract with no penalty. Seventy nine of them offered flexibility, including short-term agreements ranging from one house to a couple weeks. Fifty three said that we could at any time cancel the contract with no penalty. Several agents explained they did not want to work with a buyer who did not want to work with them. However several other agents said that there would be a penalty for termination, with one setting the fee at $500. Several of the 53 noted that if they showed us a property which we then purchased through another agent, they would be entitled to a commission.[17]

The agents offering short-term contracts required that they eventually be replaced by longer-term agreements. The typical length of these contracts was three or six months – 83% of a sample of 70 agents -- though several were as short as one month and several were as long as twelve months.

Some agents ignored the settlement's requirement that buyers sign a contract before the first showing. Ninety five agents indicated a specific time when they wanted the contracts signed. More than half (52%) said they wanted our contract signed upfront, which meant that if they showed us a house virtually before we had visited the area, we had to sign an agreement before that showing. Twenty eight percent said it was okay for us to sign the contract on our visit to the area before the first showing, with some saying that they could show us a property virtually before then. Seventeen percent indicated only that we sign an agreement before making the first offer on a property. Five agents said that we never had to sign a contract. One agent said that "we won't sign the contract until we find a property to buy, then we'll redate it." The total sample included five agents from Birmingham, whose state legislators recently had passed a law requiring only that the contract be signed before the first offer.

As several agents pointed out, there is no effective enforcement of the new rules. To quote one Sacramento agent, "no-one's checking contracts to make sure they're signed."

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[17] We believe that most agents would honor this commitment, in part, because they would not want to work with an unhappy buyer who could frustrate the agent in many ways. But a broker could overrule the agent and, as permitted in many buyer agent contracts, insist on transferring the buyer to another agent in the brokerage.

Policy Implications

The 2024 settlement removed two important barriers to price competition that allowed greater negotiation of buyer agent compensation by both buyers and sellers. The first was prohibiting mandatory offers of buyer compensation posted on local multiple listing services. The second was requiring buyer agents to obtain a signed contract from buyers, which included a buyer obligation to compensate the agent, before properties were shown. Together, these two measures freed sellers from being required to compensate buyer agents, allowing these sellers more freedom to negotiate any compensation they provided. The measures also greatly increased the likelihood that buyers would discuss buyer compensation with their agent and negotiate its level.

The removal of these barriers, while necessary, was not sufficient to ensure more successful consumer negotiation of commissions. While future buyer and seller attempts to negotiate buyer competition might increase as they learn more about the new negotiation opportunities, it has become increasingly apparent that successful agent work-arounds have greatly limited these opportunities. Buyers are still assured by most agents that sellers will pay their commissions. And if sellers fail to do so, they fear that their homes won't be shown.[18]

Since it is not feasible and probably illegal to prohibit sellers from compensating buyer agents, what is to be done?[19] The pre-settlement goal of true separation of commissions – buyers paying their agents, and sellers their agents – should be revived and prioritized. So should the most practical mechanism for doing so – allowing buyers to easily include buyer agent commissions in their mortgage loans. Since there is a broad consensus that these commissions are usually included in sale prices, buyer commissions are currently financed but are done so implicitly with no practical way for buyers to negotiate this compensation. Buyer commissions must be removed from sale prices so that buyers have real opportunities to negotiate and pay them.

The barrier here is that federal agencies, especially the GSEs, greatly limit this explicit financing of commissions.[20] If they were to end these limits, over time housing prices would likely decline and so would buyer commissions, reducing overall consumer costs. We have been told by insiders that if the GSEs (chiefly Fannie Mae and Freddie Mac) allowed easy mortgage financing of buyer commissions, large lenders would make available this new opportunity. At the same time, aware that buyers had this option, sellers would be less willing to pay the commissions. Over time the marketplace would adjust to

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[18] We did, however, hear evidence of agent honesty. One Seattle agent said that "if the seller offers more than is in our agreement, the difference goes back to us as a credit at the closing." And we also saw evidence of agent acceptance of the spirit of the new rules. A Minneapolis agent stated that "most seller brokers are not pre-negotiating." Several agents did acknowledge, though, that they would try to work out details with the listing agent before an offer was submitted.

[19] It appears to us that any legislative or regulatory effort to do so would be thwarted by courts challenging such a restriction on the individual liberties of sellers.

[20] Colin Robertson, "Can Real Estate Commissions Be Financed via the Mortgage?" The Truth About Mortgage (August 16, 2024).

these changes with the likely result that eventually buyers would usually, but not always, compensate their agents.

Even with this change, though, there is no assurance that rates would decline or more greatly reflect agent competence, reputation, and effort. Many if not most buyer agents would probably still try to charge rates of 2.5 or 3 percent. And many home buyers and sellers would still lack the knowledge and motivation to engage in serious rate negotiation. However, there is no question that there would be greater opportunities for consumers to negotiate rates effectively and also larger incentives for agents to compete on the basis of price. In part, this is because it would be harder for agents to learn the rates that other agents were charging, making informal collusion more difficult.

During the Biden Administration, a group of academic and consumer leaders spoke with White House officials about eliminating restrictions on the financing of buyer agent commissions. The officials reported resistance from the GSEs. As litigation against industry price-setting continues, the industry might be willing to join in support of allowing this financing. The continuing uniformity of rates provides prima facia evidence of price-fixing and an easy, tempting target for critics.

Related Advice to Home Buyers and Sellers

To Buyers: Buyers, in their interviews with prospective agents, would benefit from inquiring about their compensation and their willingness to negotiate it. If agents refuse the latter, then ask whether they will accept less if sellers offer less and, if so, how much less. How agents respond should be considered, among other factors, in buyer selection of an agent.

Initially, buyers should try to sign a short-term agreement, perhaps just for week, in order to learn more about the agent. After that, they should try to sign a contract that's no longer than three months. In addition, buyers should inquire whether the agent is willing to terminate the contract with no penalty.

To Sellers: Sellers should understand that many buyer agents will lower their compensation if there is pushback. In interviewing prospective listing agents, sellers would benefit from asking whether the agents are prepared to communicate to buyer agents a willingness to negotiate their compensation, not ever disclosing a specific amount.

Summary and Conclusions

The 2024 settlement of two class action lawsuits removed two important barriers to price competition but -- as we learned in 281 "mystery shopper" interviews with buyer agents from major national and regional firms -- had little impact on commission rates quoted by these agents. There is even evidence that some buyer agents may have raised their rates as a risk premium against the new ability of sellers and buyers to negotiate down rates. However, in response to sellers determined to negotiate down buyer agent rates, two-thirds of responding buyer agents were prepared to lower their rates, sometimes by a full percentage point. Accordingly, it is to the benefit of both sellers and buyers to discuss

buyer agent compensation with their agents, and for both to seek agents who are willing to negotiate down buyer agent rates.

We also learned that many buyer agents, aware that buyers are reluctant to sign long-term contracts at the outset, expressed a willingness to offer short-term contracts initially (sometimes only for one house, one day, or one week) and/or also terminate the agreement at any time at the request of the buyer with no financial penalty. Buyers would benefit by discussing buyer agent flexibility about the length of all contracts and the willingness of the agent to terminate them.

In terms of policy, what must be done to ensure meaningful price competition in the industry? Our recommendation is to revive and prioritize the call for complete separation of buyer and seller compensation with buyers and sellers each compensating their own agents. The most practical way to facilitate this separation is for federal agencies to more easily allow buyers to include buyer agent compensation in their mortgages. Over time, with mortgage lenders also offering this opportunity, this compensation, now implicitly financed as part of the sale price, would be explicitly financed, allowing much more meaningful buyer negotiation with their agents.

The industry may think that they have been successful in preserving traditional buyer agent rates of 2.5% to 3%. However, the glaring price uniformity that continues is prima facia evidence of the lack of effective price competition. There is little, if any, relationship between these commission rates and agent competence, reputation, or effort on an individual sale. This uniformity, and the fact that rates are higher in the U.S. than in most other countries, exposes the industry to more litigation and antitrust enforcement. However, the industry could avoid these threats and help ensure a gradual transition toward a more price competitive market by supporting the ability of buyers to include buyer agent compensation in their mortgage loans.

APPENDIX A: DISTRIBUTION OF BUYER AGENT COMMISSION RATES IN METRO AREAS

CITY	<2.5%	2.50%	2.6-2.9%	3%	>3%	N/A*
Albuquerque (NM)	0	0	0	9	1	1
Atlanta (GA)	0	0	0	12	0	0
Baltimore (MD)	0	5	0	2	0	4
Birmingham (AL)	0	8	0	3	0	0
Boston (MA)	8	4	0	1	0	0
Buffalo (NY)	1	2	0	4	0	1
Charlotte (NC)	0	0	0	8	0	1
Chicago (IL)	0	13	0	2	0	0
Cincinnati (OH)	0	0	0	8	0	1
Dallas (TX)	0	0	0	14	0	0
Denver (CO)	0	0	7	3	0	0
Hartford (CT)	1	6	0	4	0	0
Houston (TX)	0	0	0	12	0	0
Indianapolis (IN)	0	0	0	10	0	0
Jacksonville (FL)	0	3	0	8	0	0
Kansas City (MO)	0	0	0	11	0	0
Miami (FL)	0	0	0	13	0	0
Minneapolis (MN)	0	0	8	2	0	0
Oklahoma City (OK)	0	0	0	10	0	1
Phoenix (AZ)	0	2	0	9	0	1
Pittsburgh (PA)	0	1	0	8	0	1
Portland (OR)	1	9	0	0	0	0
Sacramento (CA)	0	5	0	5	0	0
Salt Lake City (UT)	0	1	0	9	0	0
San Diego (CA)	1	4	1	3	0	1
Seattle (WA)	0	4	0	3	0	0
	12	**67**	**16**	**173**	**1**	**12**

*A number of buyer agents said that we buyers would pay no commission, it would be paid by the seller, but would not disclose their commission rate.