Consumer Federation of America

THE RELATIONSHIP BETWEEN HOME PRICES AND REAL ESTATE COMMISSION RATES:

IMPLICATIONS FOR CONSUMERS AND PUBLIC POLICY

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Introduction

There is much agreement that residential real estate commission rates are relatively uniform. Over the past couple of decades, scholars and realtors have reported that in most local markets, a large majority of commission rates range between five and six percent of home sale prices.[1] Recent research by the Consumer Federation of America on nearly 18,000 home sales in 35 cities found that in each of 24 cities, at least 88 percent of the sales had buyer agent commission rates between 2.5 and 3.0 percent. In each of 13 cities, at least 80 percent of the rates were identical.[2]

Some researchers have also reported that, within the narrow five to six percentage point range, rates are inversely related to home sale prices. The higher the sale price, the lower the commission rate tends to be. The most recent multi-city comparison of sale prices and rates was undertaken by two researchers with support from the National Association of Realtors.[3] These researchers found "a strong inverse relationship between the list price of a property and the buy-side commission rates in six of the seven markets examined." They observed that "this tapering of commission rates is generally consistent with some degree of price competition."[4] Earlier research had also noted the tendency for commission rates to decline as home sale prices increased.[5]

There appears to be a compelling reason for an inverse relationship. Broker compensation based on commission rates results in huge differences in dollar compensation related to home sale prices. At the same commission rate, brokers selling a $1 million home receive ten times the compensation of those selling a $100,000 home. Yet, scholars and realtors have questioned whether the former brokers spend ten times the money and time on the sale as do the latter brokers. As one researcher noted:

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[1] For recent scholarly research on rates, see the following two articles and their sources: Paula Jia Barwick and Maisy Wong, Competition in the real estate brokerage industry: A critical review (Economic Studies at Brookings, December 2019). Mark Nadel, "Obstacles to Price Competition in the Residential Real Estate Market," Berkeley Business Law Journal, v. 18, n. 1 (2021). For an industry view, see: Bailey Peterson, "Average Real Estate Commission Rates by State (2021)," Clever Real Estate (July 26, 2021).

[2] Stephen Brobeck, Real Estate Commission Rates in 35 Cities: Uniformity and Variability (Consumer Federation of America, April 2022). All scholarly research on commissions in the past several decades has focused on buyer broker (buy-side) commissions, listed by local multiple listings services (MLSs), because there is no publicly available source of data on listing agent commissions. In their listings of home sale buyer commissions, MLSs may not include final rate adjustments.

[3] Ann B. Schnare, Robert Kulick, "Do Real Estate Agents Compete on Price? Evidence from Seven Metropolitan Areas," in Edward Glaeser, John M. Quigley, Housing Markets and the Economy: Risk, Regulation, and Policy (Lincoln Institute of Land Policy, 2009).

[4] Op. cit., p. 336.

[5] C.F. Sirmans, Geoffrey K. Turnbull, "Brokerage Pricing Under Competition," Journal of Competition," Journal of Urban Economics, v. 41 (1997), pp. 102-117. William C. Goolsby, Barbara J. Childs, "Brokerage Firm Competition in Real Estate Commission Rates," Journal of Real Estate Research, v. 3, n. 2 (1988), pp. 79-85. Michael Carney, "Costs and Pricing of Home Brokerage Services," AREUEA Journal, v. 10, n. 3 (1982), pp. 331-354.

"Commission rates are generally expected to vary inversely with house price, on the basis that the effort needed to sell a home is not proportional to the price of the house."[6] This thought has certainly occurred to many consumers selling high-priced homes. It has also surely occurred to many brokers selling low-priced homes.

The main limitation of the research on sales prices and rates is that it is dated. The most recent research used data on home sales between 2000 and 2007.[7] Yet, many changes have occurred in the industry since then, including increased use of technology, more active discounters, and the emergence of portals such as Zillow that provide consumers greater information about homes for sale and real estate agents. Perhaps these or other factors altered the relationship between home sale prices and commission rates.

This report examines this issue using data from 17,805 home sales, in 2021 and early 2022, in 35 diverse U.S. cities.[8] It finds no consistent relationship between sale prices and rates. In eight cities, there are statistically significant inverse relationships. In another eight cities, there are statistically significant direct relationships – higher-priced homes tended to carry higher commission rates than do lower-priced homes. In five cities, rates are fairly similar for all categories of home price. In 13 cities, as explained below, meaningful comparisons are not possible. The report discusses why higher sale prices are usually not associated with lower commission rates. It also considers the implications for consumers and public policy.

Methods

The data on home prices and commission rates in 33 cities was drawn from multiple listing service (MLS) sold listings in 2021. The data from Seattle and Portland (OR) came from for-sale home listings on the Redfin portal in early 2022. The listings were consecutive. The MLS and Redfin data include only buyer broker (buy-side) commissions. At present, data on listing agent commissions for many sales are not available to researchers.[9] In most areas, listing and buyer brokers usually receive an equal share of the commission, although research has found some variation here, with

[6] John C. Weicher, "The Price of Residential Real Estate Brokerage Services: A Review of the Evidence, Such As It Is," Real Estate Law Journal (Summer 2006), p. 131.

[7] Schnare, loc. cit.

[8] Albuquerque (NM), Atlanta (GA), Bakersfield (CA), Baltimore (MD), Birmingham (AL), Boise (ID), Brooklyn (NY), Buffalo (NY), Charlotte (NC), Chicago (IL), Columbus (OH), Dallas (TX), Denver (CO), Grand Rapids (MI), Harrisburg (PA), Hartford (CT), Houston (TX), Indianapolis (IN), Jacksonville (FL), Las Vegas (NV), McAllen (TX), Memphis (TN), Miami (FL), Minneapolis (MN), New Orleans (LA), Oakland (CA), Phoenix (AZ), Portland (ME), Portland (OR), Roanoke (VA), St. Louis (MO), Salt Lake City (UT), San Diego (CA), Seattle (WA), Trenton (NJ).

[9] Information on broker compensation is included by mortgage lenders on forms they submit to the U.S. Department of Housing and Urban Development, but this information is not publicly available. Moreover, it does not include information on broker compensation in cash sales.

listing agents usually receiving a slightly larger share.[10] The homes in most sampled areas were sold during a strong seller's market where there was often intense competition among buyer brokers for properties. Listing brokers (and sellers) could have taken advantage of this competition to lower buy-side rates, and there is evidence that some brokers did so.[11]

In 10 of the 35 cities, commission rates were so uniform that meaningful comparisons could not be made. A large majority of home sales in these cities carried the same commission rate – Atlanta (87%), Baltimore (84%), Columbus (89%), Grand Rapids (96%), Hartford (84%), Houston (89%), Memphis (93%), Minneapolis (88%), Oakland (94%), and Roanoke (95%). Comparisons were also not useful in two cities – Harrisburg and Trenton – where few home prices exceeded $200,000, and many homes with lower prices carried dollar commissions. In Brooklyn, buy-side commissions for sales from a multiple listing service not affiliated with the National Association of Realtors (and NAR rules), had very low and varied rates. In the remaining 22 cities, the relationship between home prices and commission rates was examined.

For each city, the home price data were organized into six categories – under $150,000, $150,000-$299,999, $300,000-$449,999, $450,000-$599,999, $600,000-$999,999, $1,000,000 and above.[12] In cities with few sales in a category or two, categories were merged. For example, in Denver there were only three sales under $300,000, so the two lowest price categories were merged into the third. Similarly, in Indianapolis, there were only 28 sales with a sale price of $450,000 or greater, so the three highest price categories were merged. These category mergers will be shown in the findings on individual cities.

For purposes of analysis, buy-side rates were organized into two categories. For most cities, the categories were 2.5 percent and below, and above 2.5 percent. (In a large majority of cities, most rates were either 2.5 or 3.0 percent.) However, in some cities there were more homes sold below 2.5 percent than above this amount, so the cut-line was lowered one-tenth of a percentage point to 2.4.

The home price data were correlated with the buyer broker rates. Meaningful relationships are shown. A Spearman rank correlation of percentage distributions was calculated to help determine whether differences were significant for all home price

[10] See discussion and sources in: Stephen Brobeck, The Relationship of Residential Real Estate Commission Rates to Industry Structure and Culture (Consumer Federation of America, November 2021), pp. 9-11.
[11] See Brobeck, Real Estate Commission Rates, loc. cit., p. 12.
[12] Rates were correlated with price categories, not individual prices, to more clearly show the relationship between the two variables.

categories. (These calculations did not take into account variation in the number of units in the price categories.) In addition, a Chi-Square statistic for a four-square contingency table was computed using sale numbers, not percentages, to help determine whether there was a significant difference in rates for lower and higher price categories.

Findings

In this section, the correlations of home prices and buy-side commission rates are described. Reported differences are statistically significant at the .05 level or lower. The section is organized into three subsections – cities with a direct relationship of price to rate, cities with an inverse relationship of price to rate, and cities where rates are fairly similar for all price categories.

Cities With a Direct Price-Rate Relationship

Albuquerque (NM): While relatively few homes sold for at least $450,000, and there were relatively few rates under 2.6 percent, homes priced under $300,000 were more likely to carry a rate of 2.5 percent or less than were homes priced at $450,000 and above. The difference is statistically significant.

	Number	2.5% or Less	2.6% or More
Under $300k	252	8.7%	91.3%
$450k and Above	69	1.4	98.6

Bakersfield (CA): Homes priced under $300,000 were more likely to carry a rate of 2.4 percent or less than were homes priced at $450,000 and above. The difference is significant at the .01 level.

	Number	2.4% or Less	2.5% or More
Under $300k	172	51.7%	48.3%
$450k and Above	124	32.3	67.7

Charlotte (NC): There is a strong positive correlation between sale price and commission rate among all price categories. The difference in rates associated with homes priced under $300,000 and homes priced $1 million and over was significant at the .01 level.

	Number	2.5% or Less	2.6% Or More
Under $300k	98	60.2%	39.8%
$300k-$449k	238	59.7	40.3
$450k-$599k	63	58.7	41.3
$600k-$999k	64	45.3	54.7
$1m and Above	31	25.8	74.2

Dallas (TX): Homes priced $600,000 and above were more likely to be charged a higher rate than homes priced below this level. There was even a significant difference in the rates associated with the most expensive homes and those priced under $300,000.

	Number	2.5% or Less	2.6% or More
Under $300,000	189	20.1%	79.9%
$300k-$449k	110	20	80
$450k-$599k	93	18.3	81.7
$600k and Above	108	6.5	93.5

Denver (CO): As house prices rise, commission rates also tended to rise, and the correlation is statistically significant. The difference in rates for homes priced under $450,000 and homes priced $1m and over is especially large – significant at the .01 level.

	Number	2.5% or Less	2.6% or More
Under $450k	60	36.7%	63.3%
$450k-$599k	174	35.6	64.4
$600k-$999k	226	19.5	80.5
$1m and Above	123	12.2	87.8

Las Vegas (NV): There is a positive relationship between home prices and commission rates for homes priced under and over $1 million. Homes priced at $1 million and above were more likely than homes priced below this amount to be charged a 3.0 percent rate.

	Number	2.5% or Less	3.0%*
Under $300k	108	83.7%	16.3%
$300k-$449k	184	87.5	12.5
$450k-$599k	100	85	15
$600k-$999k	77	84.4	15.6
$1m and Above	28	64.3	35.7

*No homes in the sample carried rates between 2.6% and 2.9%, or more than 3%.

Miami (FL): There is a positive relationship between home prices and commission rates, especially for homes priced above and below $1 million. The positive relationship between homes priced above and below $1 million is significant at the .01 level. Notably, 89 percent of the homes priced at least $1 million, yet only 61 percent of homes priced below $300,000, carried a rate of three percent or higher.

	Number	2.5% or Less	3.0% or More*
Under $300k	102	39.2%	60.8%
$300k-$449k	178	42.7	57.3
$450k-$599k	107	39.3	60.7
$600k-$999k	82	36.6	63.4
$1m and Above	37	10.8	89.2

*No homes in the sample carried rates between 2.5% and 3.0%.

Salt Lake City (UT): There is a positive relationship between home prices and commission rates. The difference in rates between homes priced under $450,000 and those priced at least $1 million is significant at the .01 level.

	Number	2.5% or Less	2.6% or More
Under $300k	25	48.0%	52.0%
$300k-$449k	129	59.7	40.3
$450k-$599k	183	52.5	47.5
$600k-$999k	188	45.2	54.8
$1m and Above	80	32.5	67.5

Cities With An Inverse Price-Rate Relationship

Birmingham (AL): There is a strong inverse relationship between home prices and commission rates. There is an especially large difference in rates between homes priced under $100,000 and those priced at least $500,000. A much higher percentage of the lower-priced homes (56% vs. 9%) carried commission rates of 3.0 percent or higher.

	Number	2.5% or Less	3.0% or More*
Under $100k	64	43.7%	56.3%
$100k-$299k	257	64.2	35.8
$300k-$399k	83	57.8	42.2
$400k-$499k	42	69	31
$500k and Above	32	90.6	9.4

*No rates were between 2.6 and 2.9 percent.

Indianapolis (IN): There is an inverse relationship between home prices and commission rates with an especially large difference in rates between homes priced at least $450,000 and those priced at less than this amount. All five homes with a sale price of $1 million or higher had rates of 2.5 percent or lower, with two of the properties carrying a rate of only 2.0 percent.

	Number	2.5% or Less	2.6% or More
Under $150k	101	15.8%	84.2%
$150k-$299k	288	20.5	79.5
$300k-$449k	74	10.8	89.2
$450k and Above	27	39.3	60.7

Jacksonville (FL): There is an inverse relationship between home prices and commission rates. The largest difference was between the lowest and highest priced homes. Sixty-one percent of homes priced under $150,000, but only 22 percent of homes priced at $600,000 and above, carried buy-side rates of 2.6 or higher.

	Number	2.5% or Less	2.6% or More
Under $150k	46	39.1%	60.9%
$150k-$299k	250	52.8	47.2
$300k-$449k	145	53.8	46.2
$450k-$599k	31	58.1	41.9
$600k and Above	27	77.8	22.2

New Orleans (LA): Overall, there is an inverse relationship between home prices and commission rates, but the difference is especially large between lowest and highest priced properties (though significant at the .05 but not .01 level, possibly because of small sample sizes).

	Number	2.5% or Less	2.6% or More
Under $150k	29	40.8%	59.2%
$150k-$299k	159	52.8	47.2
$300k-$449k	131	49.6	50.4
$450k-$599k	56	53.6	46.4
$600k and Above	87	57.5	42.5

Portland (ME): Commission rates tend to decline as home prices rise. Homes priced under $600,000 are significantly more likely than homes priced at $600,000 and above, to be associated with rates under 2.5 percent.

	Number	2.4% or Less	2.5% or More
Under $300k	56	14.3%	85.7%
$300k-$449k	142	17.6	82.4
$450k-$599k	157	14.6	85.4
$600k-$999k	82	31.7	68.3
$1m and Above	30	43.3	54.8

Portland (OR): The percentages of home sales with commission rates 2.4 percent or lower tend to decrease as home prices rose. However, possibly because of small sample sizes, the rate difference between homes priced below $300,000 and those priced at least $1 million was not even statistically significant at the .10 level.

	Number	2.4% or Less	2.5% or More
Under $300k	24	25.0%	75.0%
$300k-$449K	69	34.8	65.2
$450k-$599k	124	26.6	73.4
$600k-$999k	87	35.6	64.4
$1m and Above	40	45	55

St. Louis (MO): Homes priced below $450,000 were significantly more likely (.01 level) than homes priced above this amount to be associated with commission rates above 2.5 percent. Only one of ten homes priced at least $1 million carried a rate above this level. Only two of these homes carried a rate above 2.4 percent.

	Number	2.5% or Less	2.6% or More
Under $150k	154	27.3%	72.7%
$150k-$299k	199	29.1	70.9
$300k-$449k	78	20.5	79.5
$450k and Above	46	67.4	32.6

Seattle (WA): There is a very strong inverse relationship between home prices and commission rates. The percentage of home sales with rates at 2.5 percent or lower sharply declined as home prices rose.

	Number	2.5% or Less	2.6% or More
Under $449k	61	34.4%	65.6%
$450k-$599k	51	47.1	52.9
$600k-$999k	171	56.1	43.9
$1m and Above	186	74.7	25.3

Cities in Which Rates Varied Little with Price

In the following five cities – **Buffalo (NY)**, **Chicago (IL)**, **McAllen (TX)**, **Phoenix (AZ)**, and **San Diego (CA)** – commission rates varied little with home prices.

Buffalo Prices	Number	2.5% or Less	2.6% or More
Under $100k	104	28.8%	71.2%
$100k-$149k	102	25.5	74.5
$150k-$199k	106	24.5	75.5
$200k-$299k	96	32.3	67.7
$300k and Above	68	30.9	69.1

Chicago Prices	Number	2.4% or Less	2.5% or More
Under $150k	64	23.4%	76.6%
$150k-$299K	207	24.6	75.4
$300k-$449k	136	19.9	80.1
$450k and Above	84	19.1	80.9

McAllen Prices	Number	2.4% or Less	2.5% or More
Under $150k	71	33.8%	66.2%
$150k-$299k	321	34	66
$300k and Above	106	39.6	60.4

Phoenix Prices	Number	2.4% or Less	2.5% or More
Under $450k	194	29.4%	70.6%
$450k-$599k	170	27.6	72.4
$600k and Above	122	20.5	79.5

San Diego Prices	Number	2.4% or Less	2.5% or More
Under $600k	64	35.9%	64.1%
$600k-$999k	222	36	64
$1m and Above	131	32.1	67.9

Home prices in our Boise sample bore no consistent relationship to rates.

We could find no factors related to cities that help explain differences in price-rate relationships. For example, cities in all three price-rate categories – inverse, direct, and no price-rate relationships – are diverse in terms of regional location, population size, and house price distribution. However, it is possible that differences in price-rate relationships are related not to the characteristics of cities but to the characteristics of firms – e.g., local or national, small or large – or individual agents – e.g., new or experienced. Dominant firms, for instance, may feel that they can impose lower rates on smaller firms. Some research has shown that dominant firms are less likely to purchase low commission rate listings.[13]

[13] Barwick, loc. cit., pp. 13-16. The authors use the term "purchase" to "refer to properties that offices intermediate on behalf of their buyers."

Discussion and Conclusions

Earlier research reported a tendency for buy-side commission rates to decrease as home prices increased, which was cited as evidence of rate competition. Such an inverse relationship makes some sense intuitively because differences in agent compensation for selling high and low-priced homes are so great. Consumers selling million-dollar homes could well question a $50,000 to $60,000 commission. This sum could purchase a Lexus or a Mercedes, or both a Chevy Camaro and a Hyundai Sonata. Conversely, agents selling low-priced homes may think that, given much higher dollar commissions on high-priced homes, they deserve a higher commission rate. An agent working with one party in the sale of a $100,000 home would receive a commission of $2,500 to $3,000, minus the portion paid to their broker or firm.

Our research, however, found no consistent inverse relationship between home prices and commission rates. In only eight of the 35 cities studied did such an inverse relationship appear. In eight other cities, the reverse was true – rates tended to increase with home prices. In five cities, the rates were relatively uniform across price categories. And in almost all of the remaining cities, there was not sufficient rate variation to meaningfully examine the relationship between prices and rates.

The big underlying question these data raise is – why do such huge differences in agent compensation related to sale prices persist? Why do some agents not charge lower rates to sell high-priced homes, thus potentially increasing the number of clients? And why do sellers of these homes not demand lower commission rates?

One factor cited by some is that agents must work much harder, at greater personal expense, to sell a high-priced home than a low-priced one.[14] However, other real estate experts and brokers disagree.[15] A real estate economist noted: "During a sellers market, it takes the same effort to sell an $800,000 home as it does a $400,000 home. During a buyers market, it takes more effort to sell the $800,000 home than a $400,000 home."[16] One broker with over 40 years experience was more emphatic: "I don't think the cost to sell a home in Massachusetts for a $100,000 priced home versus

[14] In an email dated June 30, 2022, full-service broker John Marcario wrote: "It is much more expensive and time-consuming for more higher-priced listings than lower ones. Mainly because the more expensive homes are bigger, require more inspections, clarifications of the property, and making sure the buyer and seller are happy with the process."
[15] Nadel, loc. cit., Section VI.A. Chang-Tai Hsieh, Enrico Moretti, Can Free Entry Be Inefficient? Fixed Commissions and Social Waste in the Real Estate Industry, National Bureau of Economic Research Working Paper 9208 (September 2002), p. 1. Michele Lerner, "A Spectrum of Service Models Is Changing the Way We Sell Homes," Washington Post (March 6, 2015). Paul Hagey, "Two Start-ups Charge Flat Fees For Listings," Inman (April 27, 2015).
[16] Email from Danetha Doe, economist at Clever Real Estate, July 5, 2022.

$4 million home is any different. What is different is the profit they make."[17] Another longtime broker agreed: "Generally speaking, an $800,000 house is no more work than a $300,000 house."[18] He then enumerated factors that required more agent work, including the sale of co-ops, condos, properties with homeowner associations, real estate owned by banks, distressed properties, and short sales pre-foreclosure. Most of these factors are found most frequently in homes with low or medium prices.

The exception cited by brokers was very high-priced homes – at least $4 million according to one broker and "ultra-high-end properties" according to the other – which often require very careful screening of buyers, more personal service by the broker, or very expensive video and print ads.[19] However, very few homes in our sample sold for more than $2 million.

Two other factors, though, do help explain differences in agent compensation. The first is historical and institutional. By the 20th century, agents selling most residential property in the Western world were paid fixed percentage commissions. Agents in the United States were no exception. In the 1930s, the U.S. industry sought to "stabilize" these fixed rates by issuing local rate schedules.[20] This effort to create industry norms about agent compensation had some success. By June 1940, an industry leader noted: "The trend seems to be for various states to adopt uniform schedules for the individual states, and some of the adjoining states are working together to have the uniform schedules over more than one state."[21] By the 1950s, the five percent commission was nearly uniform across the country, and by the early 1990s, the typical rate had increased to six percent, with seven percent being charged in a significant minority of sales. Today, in most areas typical rates range between five and six percent.[22]

After World War II, the U.S. Department of Justice (DOJ) began challenging industry rate-setting. DOJ was successful in persuading the industry to abandon, first, rate schedules, then, recommended rates. Nevertheless, according to a careful and extensive study by the Federal Trade Commission published in 1983, "we have no evidence that efforts at stopping these per se unlawful conspiracies produce significant change in rates." That is because "the brokerage system is, by its very nature, self-enforcing."[23]

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[17] Email from Tom Wemett, June 27, 2022.
[18] Email from Derek Eisenberg, June 27, 2022.
[19] Emails from Wemett and Eisenberg respectively.
[20] The Federal Trade Commission's 1983 report on the residential real estate brokerage industry explains industry efforts to set rates and the response of the U.S. Department of Justice. FTC, The Residential Real Estate and Brokerage Industry: Los Angeles Regional Office Staff Report (1983), pp. 195-222.
[21] Ibid., p. 196.
[22] See note 1. See also survey findings of rates at 500 firms in: Stephen and Susan Brobeck, Real Estate Agents and Home Sales: An Evaluation (Consumer Federation of America, October 1991).
[23] FTC, loc. cit., p. 202.

Key to "self-enforcement" of rate-related norms has been the requirement that all properties for sale listed on multiple listing services carry a mandatory offer of buyer broker compensation to which participating brokers have access. These offers almost always take the form of a percentage commission and are non-negotiable. Since buyer brokers are compensated by sellers, these brokers have no need to even discuss, let alone negotiate, their compensation with their buyer clients.[24] On the other hand, if listing brokers offer a commission rate below the area norm, sellers risk not having their property shown by buyer agents. As unchallenged research has shown, some buyer agents cannot resist the financial temptation to steer their clients to higher-rate properties.[25] The difference between a two percent and three percent commission on a $500,000 home is $5,000.

Historic industry norms, reinforced by tied commissions, help explain why high-priced properties usually do not carry lower buy-side rates than do low-priced properties. But why are sellers of expensive homes prepared to pay such large dollar commissions? Why do these sellers not insist that listing agents lower their portion of the commission? If sellers do insist, why do listing agents apparently often refuse these client requests? The answers to these questions are complicated and involve seller lack of knowledge, preoccupation with other issues, concern about agent service, and resistance from agents.

Most home sellers lack important knowledge about agent compensation. They have limited knowledge of commission rates and who pays them.[26] The industry makes little effort to inform sellers and buyers about agent compensation. Earlier CFA research revealed that traditional firms dominating the industry do not advertise their commission levels or disclose these levels on their websites. When individual consumers contact these firms to inquire about costs, they are not given information about commission levels. Even when individuals deal with their agents, they either are not provided information about rates or are discouraged from negotiating these rates. According to one survey, about three-quarters of listing agents said they would not negotiate their rates.[27]

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[24] In all but nine states, buyers can ask their agents for a rebate of a portion of the buy-side commission, but according to a recent survey, a very small percentage (6%) of respondents who purchased a home in the past five years received a rebate. Brobeck, Real Estate Commission Rates, loc. cit., p. 9.

[25] Panle Barwick, Panag Pathek, Maisy Wong, "Conflicts of Interest and Steering in Residential Brokerage," American Economic Journal: Applied Economics (July 2017).

[26] In a national 2019 survey undertaken by Engine Group (formerly ORCI) for CFA, only 32 percent of respondents – and 44 percent of those who had purchased or sold a home with a real estate agent in the past five years – correctly identified the typical real estate commission as five or six percent. A February 2019 survey of 1,000 home sellers by Clever Real Estate revealed that only 35 percent correctly identified six percent as the typical commission level. Andrea V. Brambila, "Buyer's Side Commission Confusion? Survey Shows Alarming Results," Inman (March 3, 2019).

[27] Stephen Brobeck, Hidden Real Estate Commissions: Consumer Costs and Improved Transparency (Consumer Federation of America, October 2019).

More importantly, sellers are often preoccupied with the price and timing of the sale, especially if they are selling one property at the same time, they are trying to buy another one. Worrying about whether they will have to move to a rental property in between sale and purchase, or whether they will be stuck with two sets of mortgage payments, understandably overshadows other concerns. These concerns may be especially great if they are trying to sell a million-dollar property where the financial stakes are high. These sellers may be particularly concerned about the terms of sale and fear that an agent compensated below the going rate will not work hard enough to obtain the most favorable terms.[28]

If mandatory commission offers were disallowed and sellers were not permitted to compensate buyer agents, buyers would have the opportunity to negotiate the compensation of their agents. Especially on higher-priced properties, buyers would likely negotiate them down below the current 2.5 to 3.0 percent levels. Furthermore, sellers would no longer have to deal with buy-side commissions and the effect of their level on the salability of their property. Encouraged by buyer negotiation of rates, sellers would likely focus more attention on rates paid to their agents. Sellers would also likely be influenced by discount brokers who were freed from the necessity of offering buyer brokers prevailing commission rates. Both listing and buyer brokers would feel more pressure from discounters who were offering lower rates and marketing them more aggressively.

New forms of agent compensation would emerge.[29] Discounters including flat rate brokers, already offer service in most areas. Hybrid compensation models are likely to emerge with agents charging a lower fixed rate for basic service plus fees for special services such as high-quality video or a large number of showings. At the same time, commission rates would likely align more closely with the quality of agent services. When rates are uniform, there is no relationship between rate and price. Huge differences in the dollar compensation of agents related to home sale prices would lessen, though probably not disappear. Since experienced, successful agents tend to sell higher-priced homes, in a more price-competitive marketplace, those selling these homes would still be able to charge the highest dollar fees (though not the highest commission rates).

Despite current restraints, home sellers should discuss commission rates with listing agents – specifically, possible rate-price trade-offs, feasibility of lowering the buy-side rate, and willingness to lower the listing agent's commission. And in those 41 states (plus DC) that permit agent rebates, buyers should inquire of their agents whether they are willing to rebate a portion of their commission.

[28] For a fuller discussion of this issue see: Stephen Brobeck, Comments Before the Department of Justice-Federal Trade Commission Public Workshop on Competition Issues (June 5, 2018), pp. 3-4.
[29] See Nadel, loc. cit. (note 1) for a discussion of compensation alternatives.