NAR's Antitrust Settlement is Impacting the Residential Real Estate Market

BY POOJA S. NAIR

A sweeping antitrust settlement involving the National Association of Realtors ("NAR") is having real-world effects on the residential real estate market. NAR is the nation's largest real estate trade organization, with over 1.5 million individual members, and only official NAR members can refer to themselves as Realtors. NAR functions as both a professional organization and a powerful industry lobbying group whose rules have long shaped how residential real estate transactions are conducted across the country.

In 2023 and 2024, a series of antitrust class action lawsuits targeted NAR and real estate brokerages and brought NAR's rules and practices under scrutiny. These lawsuits alleged that NAR's industry practices and rules unlawfully restrained competition and inflated costs for home sellers. In a federal case in Missouri, Burnett v. NAR, a jury held unanimously that NAR and the defendant brokerages "knowingly and voluntarily" engaged in a conspiracy with the goal of "raising, inflating, or stabilizing broker commission rates paid by home sellers" by following and enforcing NAR's "Cooperative Compensation Rule."

The jury awarded $1.8 billion in damages, which could have been trebled to $5.4 billion. In March 2024, NAR announced that it would settle the lawsuit rather than appeal. However, one remaining corporate defendant, HomeServices of America, is still litigating the case and not part of the NAR settlement. As part of the settlement, NAR agreed to pay $418 million and to make some changes to its rules and practices to address the antitrust concerns raised in the lawsuit.

Those changes affect long-standing rules about how homes are marketed, and agents are paid. The above-mentioned Cooperative Compensation Rule had required listing brokers to offer compensation to buyer brokers through the Multiple Listing Service, or MLS. Critics argued that this locked in commission structures that consumers rarely questioned or negotiated.

Under the settlement, those MLS-based compensation offers were eliminated. Sellers can no longer advertise buyer-broker commissions through Realtor-affiliated MLS systems, and buyer agents must now enter into written representation agreements with their clients before showing homes. These agreements are required to clearly disclose how the agent will be compensated and by whom.

Changes from the NAR settlement are most noticeable for home buyers. Beginning in July 2024, an NAR rule requires MLS participants working with buyers to enter into written agreements with their buyers. As a result, buyers are now being asked to sign paperwork earlier, sometimes before touring a single property. They may be asked to discuss compensation with an agent before they have fully settled on whether they want representation at all.

Open houses have also taken on a more structured tone. In many markets, including Beverly Hills, brokerages are increasingly careful to clarify that the agent hosting an open house represents the seller, not the buyer, unless a separate agreement is in place. Sign-in sheets, written disclosures, and explicit statements about agency relationships are becoming more common.

Listing practices have shifted as well. Because compensation is no longer displayed on the MLS, buyers and their agents must gather information more deliberately. Conversations about whether a seller is willing to offer compensation to a buyer's agent now occur off-MLS and are often tied to negotiation strategy. This has the potential to change how offers are structured and how services are priced, particularly as buyers compare what different agents offer and how they charge.

The settlement has also curtailed certain pre-marketing practices, such as extended "coming soon" listings that limit exposure to a narrow audience. These rules aim to promote broader access and reduce the perception that insiders receive preferential treatment.

What has changed most significantly is not the dollar amount of commissions, but the timing and transparency of the conversations surrounding them. The settlement has forced compensation discussions to move from the background to the foreground of a transaction. This shift does not eliminate negotiation leverage or professional judgment, but it does require that both be exercised more openly, with fewer assumptions and clearer documentation.

NAR's recent strategic plan emphasizes transparency, local flexibility, and consumer trust. However, one year into the rule changes, the actual impact of the rule changes on Realtor commissions appears minimal. Redfin reported in August 2025 that the average buyer's agent commission for homes sold in October 2025 was 2.34%, compared to 2.45% one year ago. ●

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