

**Discussion Paper:**

# **Creative Solutions for Overlapping Market Disorder – OMD**

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# Creative Solutions for Overlapping Market Disorder

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## **Purpose of Discussion Paper**

The purpose of this paper is to raise the level of awareness of overlapping market disorder (OMD) so that the industry can move rapidly to identify and implement solutions. There is a significant impact on the brokers, agents and consumers that must be explored and understood in order to craft solutions. Additionally, there is no one solution that will fit in every market, thus each market must analyze the data in their market to implement the most feasible solutions. This paper attempts to define the problem, assess the impact on the agents, brokers and consumers, propose potential solutions and provide some guidelines MLSs can utilize to determine the best solution in their market.

## **What is Overlapping Market Disorder (OMD)?**

Overlapping market disorder is where one MLS overlaps or is adjacent to another MLS. Traditionally, MLSs regionalized when there was significant agent cross over. In the last several years it has become imperative that MLSs seeking to address OMD must think about the borders in three ways--- the impact on the agents, the impact on the brokers and the impact on the consumers. The impact on each is explored below.

### ***Impact on Agents***

In some cases agents who work in a specific market area are forced to join two or more MLSs to serve their customer base. They must typically learn and use two different systems, follow different sets of rules depending on where the listing was entered, enter listings into multiple systems, search multiple systems when working with buyers, pay multiple fees, attend multiple training sessions and display data differently based on which system it came from and what the rules are for that particular MLS. If a consumer wants a home in a certain price range within an hour of their job, it is difficult for one agent to provide that information without belonging to multiple MLSs. While some would argue that the MLS should not extend its border areas because it will encourage agents to work in markets they do not know, others will argue that is the brokerage firm's responsibility to determine where their agents have the knowledge to operate. Most will agree that the current MLS overlap does present the agents with challenges and increased expenses.

### ***Impact on Brokerage Firms***

Brokerage firms are increasing their sizes and the market areas they cover. In many cases they need access to more areas than they did five, two or even one year ago. The result is that brokerage firms have to expend significantly more dollars to address the challenges and work in the market area they serve. While many broker owners never use the MLS system, they may still be required to attend multiple training sessions, aggregate disparate data from the different systems, utilize different forms, and require that every agent in their office join multiple MLSs simply to provide access for a few. The challenge of creating a real-time web site with all properties from all of the MLSs in which they participate is costly, drains technical resources who might be better utilized developing state of the art web sites that will attract and retain the consumer. This results in lost opportunities, increased costs and reduced productivity for the firms. Brokerage firms and agents are frustrated with the difficulties inherent in participating in more than one MLS.

### ***Consumer Impact***

Consumers want access to a broad range of information and will seek out those sites that provide what they want. Even when the information is less accurate, they will still go to where they perceive they can find all of the information. Contributing factors to OMD include the fact that website operators are aggregating information from multiple markets and consumers who increasingly do not see any boundaries are visiting those sites. Consumers are looking at sources other than the brokers and agents for real estate information on the Internet.

## **The Cost of OMD**

The reasons MLSs must step forward and lead the charge to resolving OMD is that it is ultimately extremely costly to the industry in terms of hard dollars and lost opportunities. It is difficult to estimate the total dollar costs to the industry of OMD. While no formal study has been done, a high level estimate of the annual dollar cost of OMD is \$150-200 million per year; this number includes duplicate fees, duplicate MLS costs such as systems, facilities, and staff, as well as brokerage firm costs to aggregate data from multiple MLS organizations and comply with different rules. These dollar costs do not include the lost productivity of the agents and the lost opportunity costs of brokers and the affected MLS organizations.

At the end of the day, the biggest cost may be the industry's inability or willingness to focus its resources on positioning the brokers and agents to compete effectively in the future and better meet the needs of the consumer.

## Regionalization of the MLSs

Prior to the advent of the Internet, full MLS regionalization appeared to be the only complete solution. Data sharing worked haphazardly, third party vendors offered solutions that provided limited data at a relatively high cost and technology was difficult to modify and change. Even with the less than ideal options available, regionalization was not the solution everywhere. Certainly it has been in markets where there is clearly one market area with significant cross over of the brokerage firms and/or the agents. Examples of this are the greater Kansas City area, the greater Philadelphia area and the Washington DC region. In other areas, where the cross over was relatively small (under 5%) MLSs resisted disrupting the marketplace with the process of implementing regionalization that would only impact a small percentage of their members. More recently, many MLSs have made significant technology investments and have created valuable assets. This complicates regionalization further since MLS organizations are faced with determining if their fiduciary responsibility requires them to protect the asset even if it is in the best long term interest of the members to regionalize. MLSs that have invested heavily in creating assets may be more emotionally invested in protecting the assets. Additionally, the next regionalization leap might only resolve the issue on one border and not all borders unless all neighboring MLSs regionalize. There is also the challenge of merging when there is an imbalance of assets between the organizations. This requires that all of the organizations focus on the end result for the brokers and agents rather than protecting the assets accumulated.

There is no one solution that is ideal for every marketplace. Each MLS must determine how to accomplish the cost and productivity savings and meeting the needs of the brokers and agents while delivering the services at a local level. Each MLS must determine what size organization can best serve the needs of its membership. The challenges when attempting to merge into one regional include governance decisions, ownership issues, technology selection, economic and financial challenges, establishing common rules, creating standards, operating per local customs and staffing and leadership concerns. This can be further complicated when governing structures and polices are so different that the gap appears difficult to bridge, such as when a broker owned MLS is adjacent to a REALTOR® association owned MLS.

## Key Criteria for Creative Solutions to Overlapping Market Disorder

There are multiple solutions for OMD today that will resolve most of the issues for the brokers and agents. Each of them needs to include most, if not all of the key criteria. Each market will need to determine the solution that best addresses the following for the brokers and agents in a market area. The key criteria are:

- Access to complete and full property information
  - Information that is available to any Participant/Subscriber in the MLS
  - Active and off-market information including history
  - Common, standard data fields
  - Consistent data definitions and business rules
- Real-time access to full property information
  - At the same time it is available to any Participant/Subscriber, it is available to all
- Only necessary to learn one computer system, attend one training class
- One set of fees provides access to all property information
- One IDX feed
  - Common display rules
  - One access point to obtain all information
  - Real-time or streaming data feeds
- Standard rules and regulations with consistent enforcement
- Offers of cooperation and compensation extended to all MLS Participants/Subscribers
- Cost effective
  - Removes duplicate fees
  - Addresses duplications of effort
  - Addresses lost productivity and opportunity costs

There are several solutions which MLSs could adopt to incorporate these key criteria.

## Creative Solutions to Overlapping Market Disorder

While there will be a myriad of creative solutions available today and in the future, several such solutions are explored in this paper. Each of these solutions could be crafted into another alternative, and other solutions will continue to be created. All of the solutions can be time consuming and reasonable expectations must be established to achieve results.

The solutions addressed here are:

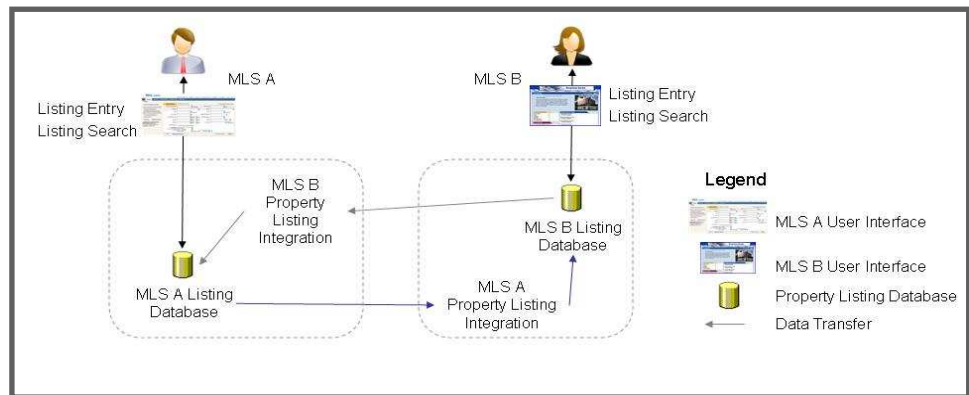
**Solution A: Reciprocal Membership Agreement**

The most basic solution is simply a reciprocal membership agreement that provides some or all of the following:

- Extends the offer of cooperation and compensation to the members of an MLS that has executed the reciprocal agreement
- Provides a mechanism for adding a listing to the other participating MLSs
- Provides a mechanism for accessing some or all of the data in another MLS through either hyper linking or aggregating a few fields of information
- Honors primary membership in another MLS so that if a broker is a primary member in one MLS, only those agents in their company who actually intend to use it are required to join
- Creating a single sign on or log on for different systems

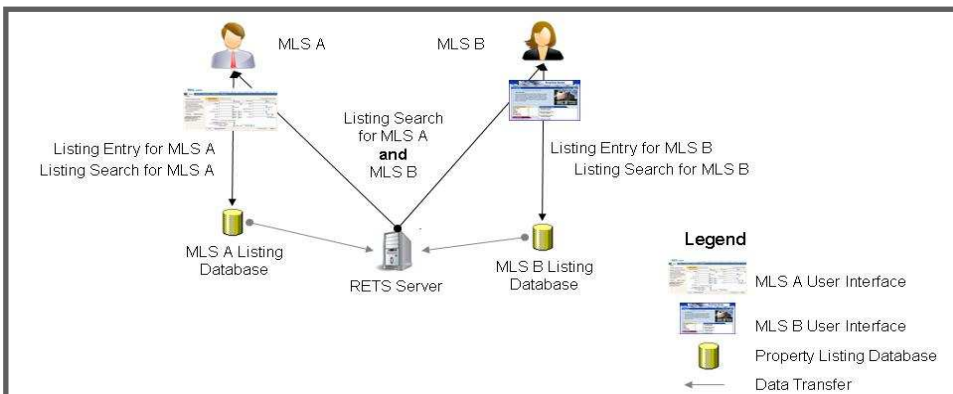
**Solution B: Cooperative Agreement that Includes Access via Data Exchange or Data Sharing**

This option includes a cooperative membership agreement between MLSs including an offer of cooperation and compensation while providing an exchange of data between the two MLS organizations. This exchange can be accomplished by the MLS organizations agreeing to provide each other with a full or partial data feed which the acquiring MLS can then integrate into their system. Ideally this would allow the



**Data Exchange or Data Sharing**

MLS participants and subscribers to conduct one search to find all properties in a specified market area. Less efficient, but better than no data exchange is providing the data to another MLS, adding it to the MLS system, but still keeping it in a separate database which then requires the user to conduct two searches in any area where listings might be entered into both MLS systems. This would typically be done when the MLSs have such distinct data sets that their systems cannot easily merge the data into one database.



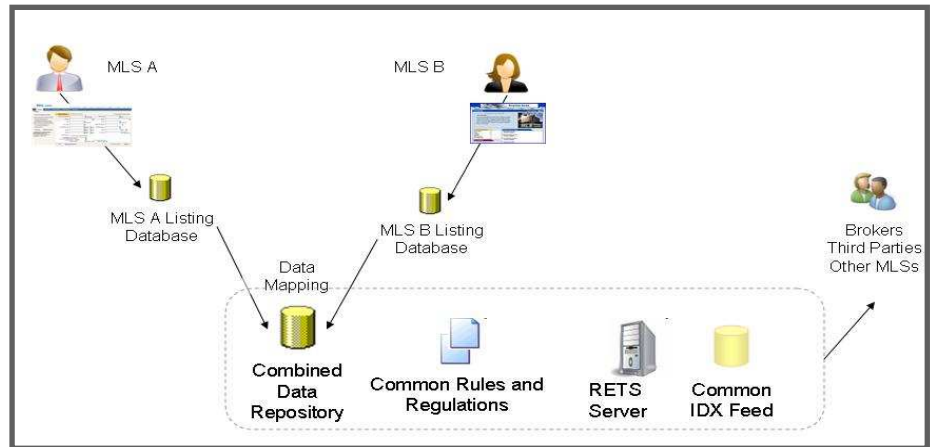
**Common Data Access via a RETS Server**

Another version of this solution is for two or more MLSs to jointly acquire a RETS server and then feed data into the RETS server. This has the advantage of at least agreeing on some common fields. Each MLS could allow the members to directly access this server or access the information through their own systems. This version does envision only one search to obtain all data in a given market area.

This Solution B may or may not be the full and complete MLS Content (all statuses and all data fields) each MLS has aggregated. This is particularly true when it comes to off-market information. The MLSs may only agree on a subset of information for exchange including specified statuses and there may be some lag time between the time the information is added into one system and when it appears to the users of another system. This could be viewed as a preliminary step to resolving overlapping market disorder, or it could be developed so completely that it addresses the key criteria for OMD solutions. This initially appears to be a relatively inexpensive option, however, data must still be mapped, agreements must be negotiated and compromises must be made.

**Solution C: Cooperative Agreement that Shares Data via a Back End System**

This option envisions accomplishing many of the key criteria desired by the brokers and agents. While it may initially require more upfront work to map the data, invest in a back end system and create complete common rules and regulations, it also provides a far reaching solution for the brokers and agents by providing complete information instantaneously and delivering one IDX feed with all information. It does require a high level of cooperation between the MLS organizations, but allows each MLS to retain its own organization including, technology, service and support, product delivery, ownership and governance. This also could provide an opportunity for all MLSs with a border to participate while still retaining their own separate MLS. Each MLS would retain its own organization, set its own fees and bill and collect from its members. Each MLS could also determine what front end would be used to access the back end system. This does create a partnership with other MLSs while still operating as competitors. In the world today, it is more and more typical that the same organizations with whom you partner to benefit the customer base, are your competitors as well.

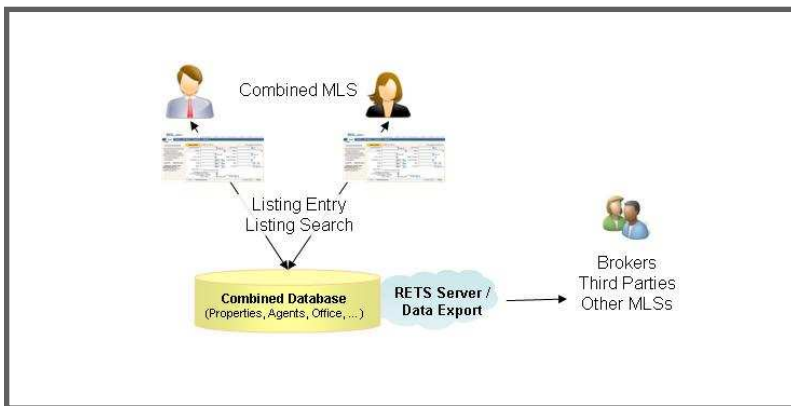


**Data Access via a Common Back End System**

Both Solutions B and C can naturally evolve into regionalization. Solution C does require that the entities participating agree to share control on data standards, business rules, MLS rules and regulations, system changes and other key areas. Additionally, there can also be some unintended consequences of this solution since some MLS organizations or REALTOR® associations may feel they can pull out of a larger regional and have access to the information. Alternatively, it could prove to make the MLS organizations ever more competitive since each may be offering the same level of access and will therefore compete on price and service. It should be noted that this is already the case in some MLSs, however, the brokers and agents typically stay with the MLS with the closest proximity to them and the MLS where they have belonged in the past rather than switching to one that may have lower prices or better services. This could result in less efficiency for the brokers and agents and added overhead to support multiple organizations.

**Solution D: Regionalization and Consolidation**

This solution effectively addresses all of the key criteria for OMD and is the most economically feasible solution. This solution also best addresses the issues of reduced agent and broker productivity and the lost opportunity costs of the firms and the MLS organizations. It is the solution that most fully resolves the impact of OMD on the brokers, agents and consumers. This solution may leave some adjacent areas where there is minimal cross over unresolved since there will always be borders until the entire country standardizes and agrees to some resolution of OMD.



**Regionalization or Consolidation**

Regionalization may be the most challenging solution to accomplish due to the substantive impact the change has on each organization. When MLSs merge to provide a complete regional, there is one technology solution, one fee structure and one overall organization. Typically this results in the loss of control, jobs and revenue which is why it is the most politically challenging solution to accomplish. Even when it is in the long term best interests of the members and is the most economically efficient model, it presents a unique set of challenges.

The challenge with MLS regionalization is that the existing regional MLSs and REALTOR® associations are strong businesses with significant assets and deep roots in their methods of doing business. The associations are also dependent on the MLSs to share in the overhead of the overall organization. An evolution may occur here where we will see a business model evolve with a business process for roll-ups of existing regional MLSs into new, larger more diverse organizations.

Regionalization does require a change in governance and possibly ownership while at the same time requiring that some if not all participants and subscribers change technology. For the purpose of regionalization, the ownership of the organization may not be as important as how the governance is established. Regionalization has the potential to take advantage of economies of scale while serving a more diverse customer base across a broader geographic area.

### ***Imagine the Possibilities***

There are a multitude of possibilities that have not yet been created, and some that have not even been imagined. The industry needs to be stimulated to explore ever changing technologies and determine how they could be harnessed to create some new solution. Some of the possibilities could be:

1. Nationwide Data Base

This option envisions that all of the MLSs nationwide agree to one common data standard, back end system for aggregation of all property information and a cooperative agreement among all MLS organizations. Local or regional MLSs could be responsible for setting fees, delivering services, determining the front end technology and enforcing rules consistently. This is essentially Solution C on a nationwide basis.

2. Brokers Operating Their Own in-house MLS Systems and Uploading Information to an MLS

This option envisions those brokers who want to operate their own systems having the ability to develop a system, license software from the MLS or acquire one from an MLS vendor. They would then use it in their businesses including uploading their information to the MLS system. The MLSs would need to be capable of having integrating with multiple front ends. The MLS would also need to have a cooperative agreement with all MLSs that are in a market where the brokers are doing business.

3. Peer to Peer

With this scenario, brokers would have the ability to access all MLS information and conduct searches with virtually no borders. The MLSs, third parties or the brokers themselves could develop software that sits on the broker's in house system that would then allow any of their agents to do a search and bring back the results of that information directly from all participating brokerage firms. Each firm would maintain their own information on their own system. The software would have the necessary checks and balances built in to meet the requirements. For brokers not operating their own system, there could be software developed that will sit on any PC to provide the same type of access. This could easily be a combination of a web based system with client software. This solution would need to determine how to provide availability of access to all participants and how to best address compliance related issues.

The software in items 1 and 2 would potentially allow those brokers who want the access to be the ones who pay for it without financially penalizing those who have no interest in it. Brokers would see a menu of locations to select, and the firm and/or agent would pay based on their selection. The larger firms would do listing management in house. It could simply search the multiple MLSs and present the responses. It would require that the MLSs, the brokers or third parties create the software so that it operates on either system and delivers the MLS content from multiple systems simultaneously. There will be some upfront costs to develop the technology and map the data; it has the advantage of leaving use of the solution up to each firm. The software could include a method to obtain the content from multiple systems for an IDX solution as well. This would be a challenge because not all brokerage firms would be prepared to add significant software to their systems. It would require a software license agreement that incorporates the offer of cooperation and compensation.

These scenarios become more likely as the brokers become more sophisticated technologically, RETS evolves to the point where connectivity is really plug and play and the MLSs prepare themselves to integrate with multiple back ends and multiple front ends.

## The Matrix

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The following is a matrix of what the key criteria and considerations are for each of the proposed solutions. The make-up of any given marketplace will determine which solution(s) are the best for that market. Any of the solutions can be selected or used to create an entirely new solution that will be best in any given market place.

Key Criteria	Solution A	Solution B	Solution C	Solution D
Solution Descriptions	Cooperative Reciprocal Membership Agreement	Cooperative Membership Agreement and Data Sharing	Cooperative Agreement, and Data Exchange via Back End System	Regionalization and Consolidation
Access to complete property information: a) All Info b) Active/Off Market c) Common fields	No	Maybe	Yes	Yes
Real-time access	No	Probably Not	Yes	Yes
Learn one system	No	Maybe	Yes	Yes
One set of fees provide access to all members	No	Yes, for limited access. Could require joining multiple MLSs for full access	Yes, but MLSs would compete on fees	Yes
One IDX feed	No	Maybe	Yes	Yes
Common rules and enforcement	No	Maybe	Yes	Yes
Offers of cooperation and compensation	Probably	Probably	Probably	Yes
Retain separate MLS organizations	Yes	Yes	Yes	No
Retain separate technology	Yes	Yes	Yes	No
Economically efficient a) Eliminates duplicate fees b) Eliminates duplicate costs c) Addresses lost opportunity and productivity	No No No	Maybe No No	Probably Some Maybe Some	Yes Yes Yes

## The Formula: What Should My MLS Do?

Prior to making a decision on which option might be best for a specific market, each MLS organization including staff, brokers and agents must do actual analysis. To aid in the decision process, the MLS will need to do research to determine which option is in their best interests. Key to reaching the best decision is to undertake this research in cooperation with neighboring MLS organizations. This is not a process that can be done in a vacuum, but must be done in conjunction with other adjacent organizations. The objective, factual research should be done prior to determining which is the best option. The research should include:

1. What percentage of the agents belong to more than one MLS?
  - a. What percentage of agents belong to another MLS as their primary MLS?
  - b. What percentage of the agents belong to other MLSs for secondary access? Which ones?
  - c. What percentage of the business do the agents in each of these categories represent?
  - d. What percentage of agents would like access to a broader market area? Which additional areas?
  - e. What additional fees do the agents pay that currently access more than one MLS?
  - f. What additional fees would the agents who want access and do not currently have it, have to pay to obtain that access.
2. What percentage of brokerage firms belong to more than one MLS?
  - a. What percentage of firms belong to another MLS as their primary MLS?
  - b. What percentage of the firms belong to other MLSs for secondary access? Which ones?
  - c. What percentage of the business do the firms in each of these categories represent?
  - d. What percentage of firms would like access to a broader market area? Which additional areas?
  - e. What additional fees do the brokers pay that currently access more than one MLS?
  - f. What additional fees would the brokers who want access and do not currently have it, have to pay to obtain that access
3. What cost savings would be realized by those firms who currently must belong to multiple MLSs, in terms of technology, staff and/or vendor resources? What opportunity costs are lost for those brokers who could spend the monies and the time investing in something else? (The brokers belonging to more than one MLS must be interviewed or asked to fill out a questionnaire to understand this impact.)
4. What economies of scale would be realized by each of the solutions outlined above in terms of facilities, systems, shared helpdesk, staff, legal, accounting and other areas where economies of scale are typically achieved with mergers?
5. What additional expense would be incurred, both one-time and ongoing, for each of the solutions indicated?
6. Would the current owners of the MLSs and the boards of directors be willing to share control over any or all of the following?
  - a. Sharing all information?
  - b. Common data fields?
  - c. Sharing off-market and sold information?
  - d. Common rules, regulations and enforcement?
  - e. Offers of cooperation and compensation?
7. Would the current owners of the MLS and the boards of directors be willing to share?
  - a. Technology
  - b. Governance
  - c. Ownership
  - d. Service and support
  - d. Staff

The MLS organizations must objectively assess the answers to these questions and determine the best solutions in their marketplace.

## Conclusion

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Ultimately the challenges of Overlapping Market Disorder (OMD) will be resolved. The questions are when it will get solved, who will solve it and who will lead the charge to resolve it. It is ultimately the responsibility of the MLS organizations, the brokers and the agents to take the necessary steps to ensure that the best solutions are implemented. This will require joint analysis, cooperation among competing MLS organizations, significant discussions and an agreement to place politics on the sidelines and take the measures that reflect the best long term interests of the brokers and agents.

Failure to take the necessary steps and assume a leadership role in addressing the challenges of Overlapping Market Disorder (OMD) will dramatically reduce the influence and traditional dominance that Brokers and MLS organizations have in today's marketplace.

The industry is up to the task. Jointly the MLS organizations have the resources, the brokers and agents have the need and the industry must find a way to make the changes necessary to position the brokers and agents to compete effectively in the next decade.