



## What should real estate expect from DOJ workshop? Zillow discusses

Antitrust attorney David Kully and open data advocate Daniel Castro share insights into DOJ and FTC's upcoming examination of real estate competition

BY [EMMA HINCHLIFFE](#)

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The Federal Trade Commission and the Department of Justice are [set to meet next month](#) to examine competition in the real estate industry — and Zillow is already getting ready.

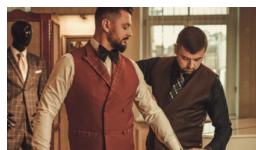
The real estate tech giant brought the issue to the forefront of its MLS Forum in Dana Point, California, last week with a panel that brought together experts in data accessibility

Zillow Vice President of Government Relations and Public Relations Racquel Russell spoke in a panel titled “Competition Policy and the Real Estate Industry” with Daniel Castro, vice president at the [Information Technology and Innovation Foundation](#), and David Kully, an attorney who worked on antitrust issues in real estate at the Department of Justice, about what professionals in the real estate industry should expect at the June 5 DOJ-FTC workshop in Washington, D.C.

“It’ll be an open-ended exploration of how the real estate industry could be more competitive than it is today,” Kully, who oversaw the [2005 antitrust case against the National Association of Realtors](#), told the audience.

The 2005 case against NAR focused on NAR’s reluctance to let brokers use listing data for their own websites — now a common practice. At this upcoming workshop, the DOJ and FTC [have said](#), they plan to look into potential changes to multiple listing services, availability of listing data and state licensing regimes around residential real estate transactions.

Both agencies understand the importance of MLSs, the panelists said, but are skeptical about the necessity and anti-competitive effects of keeping real estate data solely behind a walled-off platform.



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“MLSs are very special, very important. That’s actually what’s behind a lot of the antitrust enforcement in this area, is the recognition that MLSs are so important that brokers can’t really meaningfully compete in any local area without being a member of the MLS that serves that area,” Kully said.

NAR [commissioned a white paper](#) published last month that argued that there are competitive benefits to limiting access to MLS data. Castro, the other panelist, had [earlier published a white paper](#) in opposition to some of those claims. Castro advocates for broader access to data.

“I am not anti-MLS. I am pro-data,” Castro said during the panel. “You can be pro-something without being anti-something else.”

NAR, Castro said, has analyzed data as a “normal good” — something that has limited availability and leaves less for other parties when someone’s already using it. But just because one person is using data doesn’t mean someone else can’t use it at the same time. That eliminates some of the benefits of keeping data walled off, like in an MLS, Castro said.

examine MLS practices, data availability, agreements among brokers and any state laws that restrict competition.

Federal antitrust officials understand the value of MLSs to the real estate industry — but they don't agree with some arguments that MLSs need to claim sole ownership of real estate data to stay viable.

"The DOJ and FTC will say they agree wholeheartedly with the idea that MLSs are special, and they deserve to be preserved," Kully said. "If the MLSs block access to data, the DOJ — they're going to be skeptical that's necessary to preserve the MLS."

*Email Emma Hinchliffe*

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"I am not anti-MLS. I am pro-data," Castro said during the panel. "You can be pro-something without being anti-something else."

Really?

Without MLS, what type of data do you have? I would argue that you have "garbage data" that true real estate consumers are not interested in. Zillow learned that lesson. Zillow wants MLS data too instead of what they were providing before, which was in many cases just garbage that only real estate "tourists" enjoyed. "Free data" is the tax record and google earth.

I would say I'm pro "good data," and better data tends to come from the MLS. And "good da... See More

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**Aimee Vora** · President/CEO at Porchd LLC

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**Elizabeth Morse Rhodes**

The DOJ should be more concerned about Corelogic's hold on the real estate industry. They own MLSSs, Appraisal Management Companies, Appraisal Software, Marshall and Swift construction estimating software that appraisers use for new construction appraisals, flood certs, review appraisal software, RealAVM, AppraisalPort, mortgage risk scoring software, etc. They ARE stealing data from the appraisers along with the MLSSs they own. All the companies they now own are now controlling all sides of real estate data. I can see why Zillow is having a problem although they own the software that most brokers use to write contracts. Too many companies stealing data for AVMs. Corelogic is really the "big fish" to be worried about. A story should be written about them in regards to RESPA violations. Here is an article about what they own now. It is scary. <http://appraisersblogs.com/corelogic-big-corporation-vs.../>

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**James Sanson** · Team leader at Keller Williams Realty Phoenix

The MLS should be owned strictly by the associations, and each broker should be able to decide if they allow IDX, Zillow, [Realtor.com](http://Realtor.com) etc. I see the 1099 Agent vanishing and we becoming employees of brokerages that buy, sell, and trade inventory; or build.

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**Paul Roy** · WSU, Washington

I have been in the industry before we had the internet like today (1993) and 3rd Party Aggregation was a new concept. Allowing those who were not listing agents to advertise listings seemed like a good idea. I was a big fan in the beginning. Yeah! Advertise my listing for me! But now, I am rethinking the whole idea. Maybe we need a change? Maybe we need tighter access controls?

With all that is happening with DATA farming, (Facebook, Google, Etc.), Scams targeting buyers and sellers, scams targeting the Real Estate Industry, I think it's time to revisit the

**Kenneth Jenny**

Just more support for the argument that so many still don't get it. The MLS should have no right to restrict the access to data. In fact, the use of the term restriction is incorrect. If competitive business practices include the right in a free enterprise system for the "manufacturer of a product" to also determine how they choose to distribute, publish, advertise, market and sell the product, then the issue is not with the listing brokers. The issue is with the MLS policies and rules. Today, the brokerage industry is mandated by the MLS to cooperate and compensate with all other MLS mem... [See More](#)

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