

MLS Data Licensing: The Business Opportunity and Data Security Issues White Paper

by



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Introduction

MLS data licensing is a business with great, untapped potential. Currently most MLSs do not have data products, marketing strategies, or the legal and technological mechanisms for data protection, nor do they have the infrastructure of marketing, selling, fulfillment, and billing to support the great potential of data licensing. The purpose of this paper is to examine this business, explore the opportunity, raise issues that must be considered and suggest a path for creating the infrastructure that will be needed to support a successful venture.

Opportunity

The following is a sample opportunity analysis Clarity recently performed for a mid-sized (4,000-6000) member MLS, based on data provided by other MLSs that have been successful at data licensing.

License Type	Number	Revenue/Month/Licensee	Monthly Revenue
Title, AVM, Mortgage, Lender Services	6-8	Average of \$5,000	\$30,000
Local and regional buyers, Direct Marketing, Attorneys, Transaction Management	20	\$.25/new listing (average per use) x 3000 listings per month = \$750 per buyer, not including incremental, premium online subscriptions	\$15,000
Combination of local and national listing aggregators	2	2 x \$.50/new listing x 3000 listings per month = \$3000	\$3,000
MONTHLY REVENUE TOTAL:			\$48,000
ANNUAL REVENUE TOTAL:			\$576,000

Plainly, data licensing can provide an excellent opportunity for non-dues revenue.

The opportunity becomes even greater if: 1) the MLS performs data cleansing and enrichments, 2) integrates MLS data with other databases to create new and more valuable data products, or 3) achieves higher sales objectives, as outlined later in this paper.



Uses for MLS Data

Following are possible applications or market segments for MLS data licensing principally within the real estate industry:

- National listing advertising portals
- Regional listing advertising portals
- Local listing advertising sites
- Broker and agent productivity solution providers
- Web site solution providers (including IDX and VOW sites)
- Automated Valuation Models (AVM)
- Supra information products
- Transaction management systems
- Parallel MLS systems (including boutique/niche and broker systems)
- Real Estate research firms

Some of the segments are opportunities for new revenue from data licensing, while others are “internal” clients. The internal clients may enable many MLSs to leverage the creation and development of delivery mechanisms and legal agreements to facilitate the execution on new revenue-oriented data licensing opportunities.

There are also uses for MLS data within industries that service the real estate industry or have other interests in property sales data, including:

- Appraisers
- Asset management
- Attorneys (divorce)
- Contractors (roofers, A/C, lawn and pool service)
- Government agencies (city, county, and the IRS)
- Credit bureaus and agencies
- Insurance (home, auto, life)
- Title insurance companies
- Direct marketing (newspapers, telemarketing, direct mail)
- Replacement cost services
- Telecommunications services (voice and Internet)
- Automobile dealers (yes, home buyers often buy new cars within six months!)

In Clarity’s opinion, any business should be considered a valid potential customer as long as it is willing to pay for the data and conform to the MLS data licensing and terms of use rules. There is more on licensing terms of use and data protection later in this paper.

One way to ensure the MLS data is only used as it was licensed is to limit the data based on the need of the application. For instance, an AVM does not require property photos or agent remarks, so the potential abuses of this partial MLS data set are automatically governed. Real Estate information can also be sold for a higher price if it is optimized, “productized” and packaged for specific applications and buyer’s needs.



Product Definitions and Pricing Guidelines

Following are a few examples of information product “packages” an MLS should consider creating to optimize the marketability and value of the data:

Advertising Package

This product contains all data needed for advertising including photos. This is the 30-40 field and feature subset of the whole listing similar to the information typically displayed on Realtor.com.

Pricing of this product should be based on:

- Number of listings and photos downloaded
- Delivery mechanism (RETS, FTP, CD)
- Frequency of delivery (real time vs. periodic updates)
- Type of licensee (MLS member, affiliate member, non-member)
- Type and scope of use (web, print, digital media)
- Term of license

Automated Valuation Model (AVM) Package

Automated Valuations are increasingly used by lenders to confirm real property valuations, especially in refinance situations. The borrower may still pay \$350 for an appraisal, but the lender only requires and orders an automated appraisal generated by an AVM. The lender receives the automated valuation within a few minutes and only pays a few dollars for the valuation. Since AVM accuracy is important, MLS sales data is very valuable “fuel” for the AVM’s engine. AVM providers are among the most active buyers for MLS data and are willing to pay a fair price for data.

The AVM information package would include sales price and more comprehensive property characteristic data than the aforementioned Advertising Package. The MLS data enriches the quality of public records and can greatly enhance the reliability and coverage for AVM tools. Terms of use for this information package can be restricted to AVM service use only.

According to Tim Kennelly, Vice President at First American Real Estate Services, the following information would be most valuable to AVM providers:

Physical characteristics

- Gross living area
- View
- Site influence
- Lot size
- Year built
- Bedroom / bath count
- Pool / spa

Recent sales information

- List price
- Last sales date
- Last sales price
- Days on market



A typical financial arrangement with an AVM provider would include a monthly or quarterly minimum payment, and possible a royalty participation in net revenues. The royalty rate may vary based upon the quality of data and the number of times the AVM actually uses the MLS data in the generation of a valuation.

Who are the AVM buyers? First American, Freddie Mac, FNIS, Stewart Title Landata, Basis 100 (Solimar), eAppraiseIT, Fiserv, First Lenders Data, Integrated Loan Services, and LandSafe are potential candidates for licensing MLS data for AVM purposes. AVM providers need recent, but not necessarily real-time, MLS data and are typically amenable to receiving data in an ASCII comma delimited file via FTP or via a RETS interface.

Marketing Package

This product contains the information needed to target market products or services to a set of homeowners. Contact information, and specific information about the home the people own, is valuable. For example, a swimming pool service company would prefer to target only homes that have a pool, and a roofing company may prefer to target people in homes that are at least 10 years old. MLS data has great value to local and regional companies that want to accurately target property owners.

There are also many national information companies engaged in direct marketing, including large, established companies such as Equifax, First American, TransUnion, FirstData, Axciom and InfoUSA. This begs the question: "How can the MLS list add value to these existing marketing databases?" The local MLS database contains current and unique property characteristic information, as well as the property's real-time status in the sales process. This type of information is typically not available in national marketing databases.

To succeed in this space, an MLS can: 1) license the data, 2) partner with information companies to create new products, or 3) attempt to create a superior product on their own. The greatest advantage of an MLS information based product is the "freshness" of the data and the efficiency of near real-time data delivery.

Of special interest to the direct marketing industry are new mover and pre-mover lists. MLS data can also be combined with tax data and other information to include the former address and property information of the new owner, producing interesting analytical products. For example, people 'moving up' to a larger home would be strong candidates for purchasing new furniture and appliances within a specific timeframe. Relocation industry surveys have shown that the average new homebuyer spends over \$15,000 on items for their new home within 60 days of the move. Timing is everything in reaching pre-movers, because more than half of the \$15,000 is spent or committed before the sale is recorded at the courthouse. The "new mover" lists based on deed transfers at the courthouse are like week old bread compared to pre-mover lists.



Pricing of the marketing package product should be based on:

- Number of listings or members information
- Type of data licensed (listing, office, broker, agent, address, e-mail, phone, fax)
- Scope of use (# of permissible mailings / contacts)
- Term of update availability

It is well known that moving companies and others obtain MLS data illegally and use it without permission of the MLS (or the listing broker, or the consumer). An initial marketing and data protection strategy is to send these kinds of companies a letter notifying them that the MLS information is available by legal means. The letter should also include a notice that illegal use in violation of copyright will be prosecuted. A well-written letter almost guarantees a few new customers for MLS data licensing.

Public Record Enhanced Marketing Package

An MLS could enhance its product offering by combining MLS data with public records databases, creating analytical and more comprehensive products of interest for its members and other industry segments. For example, an existing customer that was buying MLS listing data may be also be interested in reaching all the homeowners in a subdivision, not just the ones with houses for sale. Combining MLS with public records data would provide this additional product.

Parallel MLS Package

An emerging trend in real estate is for brokers to put a private MLS in place for their agents and customers, effectively a parallel MLS system. Many brokers are downloading and synchronizing the MLS database at great cost and frustration. An MLS can better serve its brokers by providing a frameable, broker brandable MLS search interface or by providing a simple, reliable data feed.

MLS Membership Data

Many MLSs and Associations license membership information, typically for sales and marketing purposes. Some of them combine MLS sales/productivity information with contact information to create an even more valuable target-marketing tool. Email address distribution is definitely the most sensitive privacy issue, and many MLSs do not license these due to “spam” complaints.



Data Enhancement

The value of the data for all products could be enhanced by providing hygiene enhancements and validation services, including Geocoding and post office CASS certification. An MLS could either enhance the data itself, working with licensed tools and data, or could partner with companies like First American, Stewart, FNIS or DataQuick.

In addition to just selling MLS data or subscriptions to an online service, an MLS should also consider acquiring and integrating additional data and making a more comprehensive and truly unique data product. In the following tables, there are various sources of property and people related data that can be combined with MLS data, greatly enhancing the marketability and value of each individual product created.

Property Related Data

Assessment Attribute Data	New Home Listing & Sales Data
Foreclosure Data	Building Permit Information
Right of Way / Easement Data	New Home Construction Data
Property Tax Information	Natural Disaster Data
Mass Appraisal Data	Transportation Services Data
Automated Appraisal Data	Residential Leasing Data
Assessment Valuation Information	Flood Zone Determination
Land Use & Zoning Data	Street / Highway Map Data
Subdivision Data (Covenants and Restrictions)	Satellite / Aerial Map Data
Structural Cost Replacement Information	Parcel Map & Data Subdivision
Environmental Hazard Data	Engineering Plat Map Data

People Related Data

Census Demographics	State Recorded Professional Licenses
Household Demographics	Legal Information (Litigation, Judgments etc.)
Lifestyle Change (Birth, Death, Divorce, Move)	Bankruptcy Information
Homeowners Association Data	Building Occupancy Data
School Data & Attributes	Residential Tenancy Data
Civic / Community / Neighborhood Information	Business Listing & Sales Data
Public Services and Utilities Information	Telephone Information
Crime Statistics	Email addresses and personal web sites

Hawaii Information Services is one example of an MLS operator that diversified its business by creating several unique and valuable information products resulting from the merger of multiple public and private data sources. As a result, non-MLS revenue is a substantial portion of Hawaii Information Service's total revenue.



Data Pricing

Data pricing varies widely, based on the area of coverage, completeness of data, accuracy of data, methods and frequency of delivery, type of data, and enhancement of data. Prices can range from one cent per record up to five dollars per record. Clareity has worked with several regional MLSs and data licensors to help establish appropriate data pricing based on the criteria above for individual markets.

Implementation

To license data to a handful of licensees is relatively simple. However, to attract and maintain a large number of licensees and multiple information products requires resources. Staff, processes and software must be put in place to streamline critical business functions such as:

- Sales and marketing
- Ordering processes
- Buyer approval
- Provisioning of custom data products
- Controlling data access
- Billing
- Customer service

One possible approach for reaching a wide number of licensees quickly is to enter a joint venture involving shared revenue with a company that has much of the infrastructure in place already – companies like First American, Fidelity, Stewart Landata, or DataQuick. A co-branded point of sale has great potential for establishing a high degree of credibility for a combined MLS/Tax Data product to the customers identified in this paper.

Approving Buyers

Because some of the data licensed by the MLS is sensitive in nature, an Order Request Validation process must be put in place to assure that the organization wishing to license data has chosen a product that it is permitted to access. The following types of buyers might be pre-approved as purchasers of the data products designed to fit their needs, pending credit check and other aspects of the order fulfillment process:

- Mortgage lenders
- Title companies
- National aggregators
- Local or regional aggregators
- Newspapers
- City and county government
- Attorneys
- Builders and contractors
- Schools and universities
- Trade associations

Other types of companies should go through an approval process to identify their data product needs and appropriate license type.



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Creating Agreements

A standard data licensing agreement should be established to provide a level of contract uniformity and protection. Some key points for these agreements are as follows:

- Outline and define the scope and nature of the relationship
- Copyright over data is maintained
- Who is allowed to use the data and for what purposes
- Agreement has a set term
- Licensee may not compete
- License is non-transferable
- Licensee may not modify data or create derivative works
- Terms of delivery (format and period) and testing of data are defined
- Terms and amounts of payment; Revenue minimums
- Data security is maintained
- Confidentiality is maintained
- Warranties and indemnification are specified
- Limitation of liability are specified
- Damages for contract violation or breach are specified
- Process of agreement termination is specified
- Assignment may not occur without mutual assent
- RESPA rules must be followed
- The proper channel for notices
- Governing law/venue

An attorney that has substantial experience in creating MLS data licensing agreements that Clareity can recommend is:

Darity Wesley
CEO & Legal Counsel
San Diego, CA
www.privacygurus.com
619-670-9462
darity@privacygurus.com



Protecting Listing Data and Images

The real estate listing has tremendous value to its owners and copyright holders. The real estate industry has yet to develop an effective way of protecting that copyright by detecting, gathering evidence of, and prosecuting copyright violations. For legal reasons, it is also important for data owners to control the display of outdated or incorrect data. The need to control the real estate listing has become even more urgent in recent years as the Internet has provided a means of data transfer and display that is difficult to control. In recent months, new rules being drafted by the National Association of Realtors have opened the door for more access to data and more mechanisms for real estate data display.

Protecting the listing is a task that can be split into two parts: protecting the data and protecting the images. Protecting the images is the easier part of the problem. Technology exists today for putting identification watermarks on images – both visible and / or invisible to the naked eye. Once an image is marked, it is far easier to tell that the image being displayed in an unlicensed context is your own and take steps to prosecute those responsible. A visible watermark is a visible translucent image which is overlaid on the primary image. Perhaps consisting of the logo or seal of the organization which holds the rights to the primary image, it allows the primary image to be viewed, but still marks it clearly as the property of the owning organization. An invisible watermark is an overlaid image which *cannot* be seen, but which *can* be detected algorithmically using detection software. In either case, it is important to overlay the watermark in a way which makes it difficult to remove, if the goal of indicating property rights is to be achieved.

There are two options for *visible watermarks*: The first visible watermark option involves a *standard watermark* identifying the distributor, and would probably be best integrated into the MLS by application immediately after file upload, getting control on the image at the earliest opportunity before even MLS users can access and save the images from their web browsers and via MLS export mechanisms. The technology for visible watermarking is readily available and should not take much time to integrate into an MLS system, meaning this would be an easy, inexpensive, and effective option. The second visible watermark option would involve storing an untouched image in the MLS, watermarking the image as described above for basic MLS use, but for IDX, RETS, and other means of distributing images to licensees, a *unique watermark* would be applied that would be different for each licensee. The advantage of this option would be that if someone saw an image being used in an unlicensed context, it would be easier to identify the source of that image. The disadvantages of this option would be a more complex implementation and the larger disk storage space required to store the many versions of the images.

Although there are a tremendous number of papers and various patents surrounding invisible watermarks (including IBM, HP, many others) the most effective methods developed to date and the processes of protection that have become industry standards are the patented intellectual property of Digimarc Corporation (<http://www.digimarc.com/>).



The primary advantage to the invisible watermark is that the image is not even slightly marred by a visible watermark and is, in that way, more desirable. There are two disadvantages of the invisible watermark: First, the technology for applying and detecting the watermark must be licensed from Digimarc. Second, the method does not present a visible barrier to illegal use. To use an analogy, one can compare the visible watermark to 'The Club' steering wheel lock that prevents theft before it happens since thieves see it and are less likely to even attempt stealing the car. The invisible watermark is more comparable to a GPS locator chip that lets you track where your car is, once it has been stolen. That's neat technology, but it's a lot more difficult to deal with the thieves and getting your car back after it has been stolen – it would be better if the car had not been stolen at all.

Of course, there is no barrier to using both visible and invisible watermarks on an image, leaving only the technology licensing issue. Implementing the watermarking should be relatively straightforward. Digimarc licenses the use of a programming tool for integrating their technology into other systems (Digimarc ImageBridge™ watermarking SDK). They also provide two mechanisms for watermark detection. The first is the Digimarc ImageBridge™ reader, a program for the Mac or PC that can be used to open up an image and detect the watermark. The second is a service called MarcSpider, a web-crawling spider that searches the Internet for your watermarked images and reports where they have been found. There are various resellers of Digimarc technology, but it is unclear what value they would provide to a real estate organization, thus Clarity would recommend going direct to Digimarc.

Digimarc charges \$15,000 as a one time license fee to use the SDK, plus an annual maintenance fee of \$3,000. This SDK includes watermarking, detection and reading functions. It can be integrated with an MLS or other software system, including custom-built web spidering software, if Digimarc's did not perform all the functions needed.

The following is Digimarc's Enterprise pricing model for 100,000-1,000,000 images per year (this would account for a mid-sized MLS):

- Watermark ID - \$14,000 one time
- Link to Registry: \$3,000 yearly
- MarcSpider: \$4,000 yearly.

MarcSpider reviews static pages only, not dynamic sites that require form input or login. This is because of a legal concern regarding approved site usage – a concern that must be addressed if we were to create our own spider to review property listing sites.

Clarity has spoken with Digimarc specifically about opportunities in real estate. Digimarc has some work yet to do in defining a product that meets *all* the needs of the real estate industry, but this could be driven by demand. Digimarc licensing contact information:

Mary Kuch-Nagle, Account Representative, Digimarc
503-495-4623 or mkuch@digimarc.com



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More complex than protecting images is the issue of protecting data – somehow ‘watermarking’ the data itself. There is no practical method available today to accomplish this goal, although there are many traditional means of “seeding” lists to detect unlicensed use of marketing lists. An MLS should also train staff and members to be vigilant for potential data abusers.

Other Issues

Revenue Sharing with Brokers

Most brokers believe they own the listing data, and if anyone is going to make a profit on it, they should. Several MLSs have addressed this issue and are paying data licensing royalties to their brokers. Other MLSs are using the data licensing proceeds to fund technology, R&D, reserves, or to keep from raising annual MLS fees. There is no right or wrong answer for what to do with MLS data licensing revenue and Clarity believes this is a matter best decided on a local basis between an MLS and its members.

A few larger brokers believe they can license their own listing inventory data directly, and the MLS should stay out of the data licensing business. The reality is that most data buyers would rather deal with the MLS and obtain the entire aggregated database for a market area from one source.

Potential Synergy with REBIG

REBIG is a new company formed to aggregate and license MLS data, especially to national buyers. If successful, REBIG will provide a means for a local MLS to reach national data licensors. Many national companies prefer a single point for MLS data acquisition rather than licensing from hundreds of local MLSs. REBIG, or any other national MLS data aggregator, is unlikely to effectively reach all of the local and regional data licensing opportunities. Therefore, if an MLS decides to license its data, it should develop its own local and regional strategy, and seek a national licensing partner to reach the buyers the MLS would never be able to.

Clarity has not signed REBIG’s Confidentiality Agreement, so we cannot comment on the viability of its business model or the value of the intellectual property REBIG has developed and protected. However, an MLS considering REBIG or any other national data-licensing partner should consider these questions:

- Is their data licensing agreement in alignment with your own?
- Do they offer a satisfactory level of IP protection for the data?
- Is the company financially stable?
- What are the costs associated with their service? Are these costs greater than your own costs of licensing, customer acquisition, and maintenance?
- Will they provide access to national licensors the MLS is unlikely to sell itself?
- Do they limit or restrict an MLS from marketing its data directly to local, regional, or national buyers?



Potential Risks and Concerns

A primary area of concern is that MLS data licensing could become a consumer privacy issue. Could consumer pressure or emerging consumer privacy laws force Realtors to disclose *all* potential uses of the data when taking listing information for entry into the MLS? If so, it is possible that consumers may be able to opt out of such usage, damaging the completeness and marketability of the data.

A second area of concern is that some brokers may decide to opt out of having their listing information sold, regardless of the ownership or revenue share issues mentioned earlier. Even if the MLS feels it is entitled to license its data, most MLS Boards of Directors are unlikely to overrule the wishes of their broker members. Clarity recommends seeking large broker buy-in as part of the implementation process. The MLS may also consider the formation of an MLS data licensing division or separate LLC that incorporates broker input, oversight or even equity and is structured to make the appropriate decisions associated with this venture.

These concerns should be explored and evaluated before a substantial investment is made in data licensing.

Conclusion

MLSs have the opportunity to leverage their greatest asset, the listing database. Based upon Clarity's opportunity analysis, MLS data licensing can generate over five hundred thousand dollars in annual revenue for a 5,000 member MLS, or over \$100 per member per year. Clarity has consulted for several large MLSs that will generate well in excess of one million dollars in 2003 from data licensing. The opportunity to license MLS data is very real, and the potential revenue certainly justifies hiring dedicated data-licensing staff in larger MLSs.

In order to fully leverage its information asset fully, MLSs must establish a local, regional and national strategy. National partners may be title companies, information companies, and / or an organization like REBIG. A local or regional strategy is best executed by the MLS itself, though perhaps with the assistance of a national partner – especially for smaller MLSs.

Selecting one or more strong partners could be an important element of data licensing implementation and success. The right partners may be able to provide data product creation, provisioning, customization, delivery, billing and other infrastructure elements, while drastically reducing the overhead costs of implementation. A valid approach to data licensing could involve providing partners with data and having them create products co-branded with the MLS. This approach could allow an MLS to focus more on sales and marketing than on the costly infrastructure of product creation, delivery, and support.



The value of the MLS data can also be enhanced by providing data hygiene and validation services, as well as enhancements such as post office CASS certification for mailing. The revenue opportunity further increases if an MLS creates multiple products, licensing not just the MLS data itself, but also creating proprietary products that result from acquiring and merging information from various sources.

MLS data licensing is a relatively untapped revenue opportunity for most MLSs. Clarity believes there will be many business opportunities, spirited discussions, and a little bit of wrangling around this issue for the next year or two. Stay tuned.

Thank you for reading our paper.

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