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NASHVILLE • OCTOBER 27

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LITIGATION UPDATE

Lesley Muchow, NAR Deputy General Counsel
& Vice President of Legal Affairs
and Antitrust Compliance

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LITIGATION LANDSCAPE

- Rule of Compensation Litigation
- DOJ Update

Rule of Compensation Litigation

Moehrl v. National Association of REALTORS et al.,
Case Nos.: 1:19-cv-01610 and 1:19-cv-2544 (N.D. Ill. 2019)

- **Filed**: March 6, 2019
- **Allegation:** Home sellers unfairly pay the commissions of buyers' brokers.
- **Status:** Discovery proceedings and class certification.

Sitzer v. National Association of REALTORS et al.,
Case No. 4:19-cv-00332-SRB (W.D. Mo. 2019)

- **Filed:** April 20, 2019
- **Allegation:** Home sellers unfairly pay the commissions of buyers' brokers.
- **Status:** Class certified, jury trial set to begin February 21, 2023.

RealEstateCommissionFacts.com

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Real Estate Commissions Facts

We have received questions about why brokers representing home sellers often pay the commission of brokers representing home buyers. Here are answers to those questions and basic information every buyer and seller needs to know.

This practice has worked so well for so long because it provides the greatest economic benefits for both buyers and sellers, creates greater access and equity for first-time, low- and middle-income and all buyers and enables small business brokers to compete with larger brokers.

In fact, listing brokers paying the commission of buyer brokers underpins local broker marketplaces, which are the primary source of information for home search sites, and serve as the driving force behind America's efficient and accessible real estate market.

How Real Estate Commissions Work

In order to understand how real estate commissions are paid, it's necessary to first understand the tool used in the vast majority of all home purchases: a Multiple Listing Service.

Multiple Listing Services, or local broker marketplaces, are essentially databases of all the homes for sale in a given market, maintained in most cases by local REALTOR® associations. Local REALTOR® associations also make most of this information publicly available for free, and each database often feeds home search sites.

When a seller lists a property on one of these local broker marketplaces with a listing broker, they get access to the largest pool of possible buyers that have been brought to the marketplace by buyer brokers. Meanwhile, buyers can work with any broker and see ALL homes for sale.

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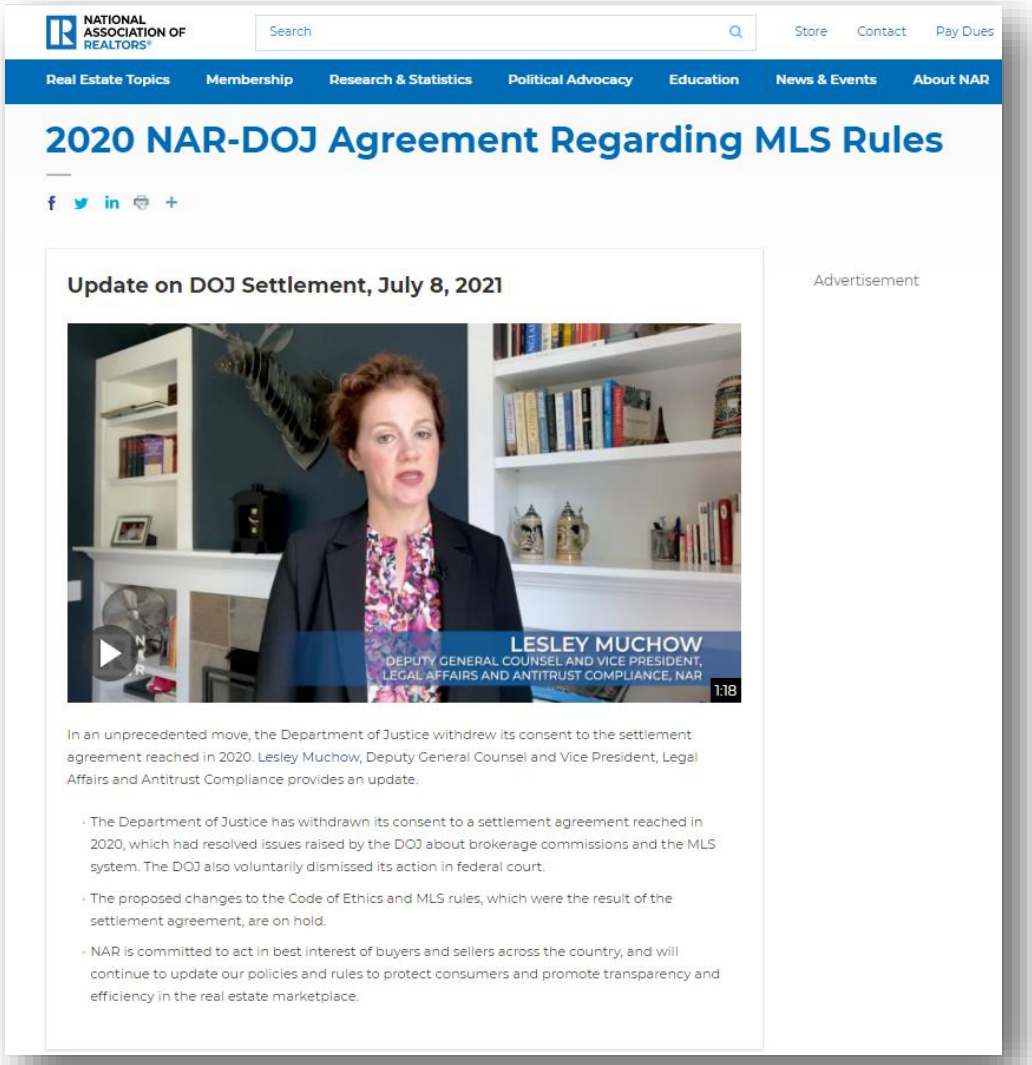
Rule of Compensation Litigation

Leeder v. National Association of REALTORS® et al.,

Civil Action No.:1:21-cv-00430 (N.D. Ill. Filed Jan. 25, 2021)

- **Filed:** January 25, 2021
- Plaintiff are a class of home buyers who purchased a home on REALTOR® association-owned MLS from December 1996 to present.
- **Allegation:** That NAR and corporate defendants promulgated and enforced anticompetitive rules that caused inflated commissions and inflated home prices.
- **Status:** On May 2, NAR's Motion to Dismiss granted; Amended complaint filed; NAR filed Motion to Dismiss September 7.

DOJ UPDATE



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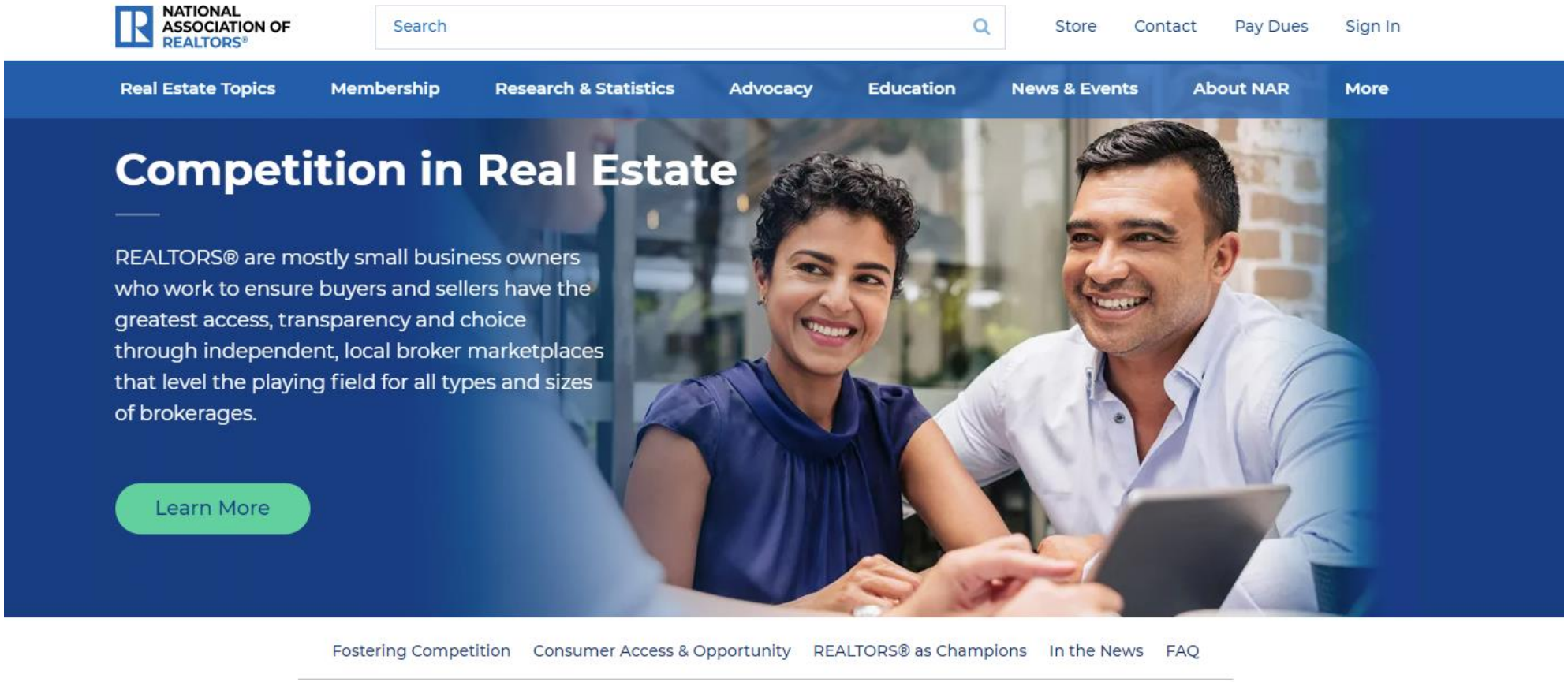
COMPETITION.REALTOR



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COMPETITION

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REALTORS® AS CHAMPIONS

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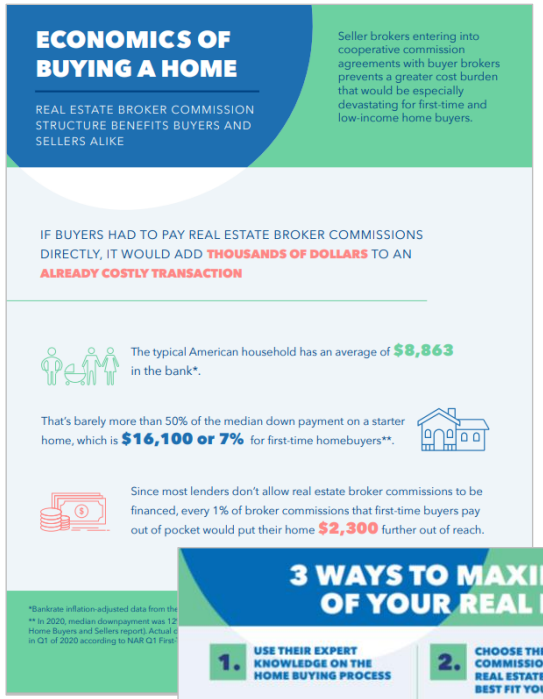
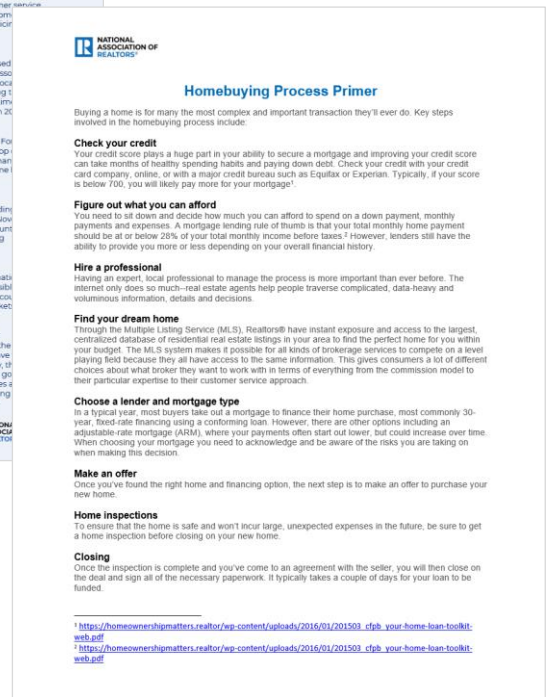
SHAREABLE CONTENT





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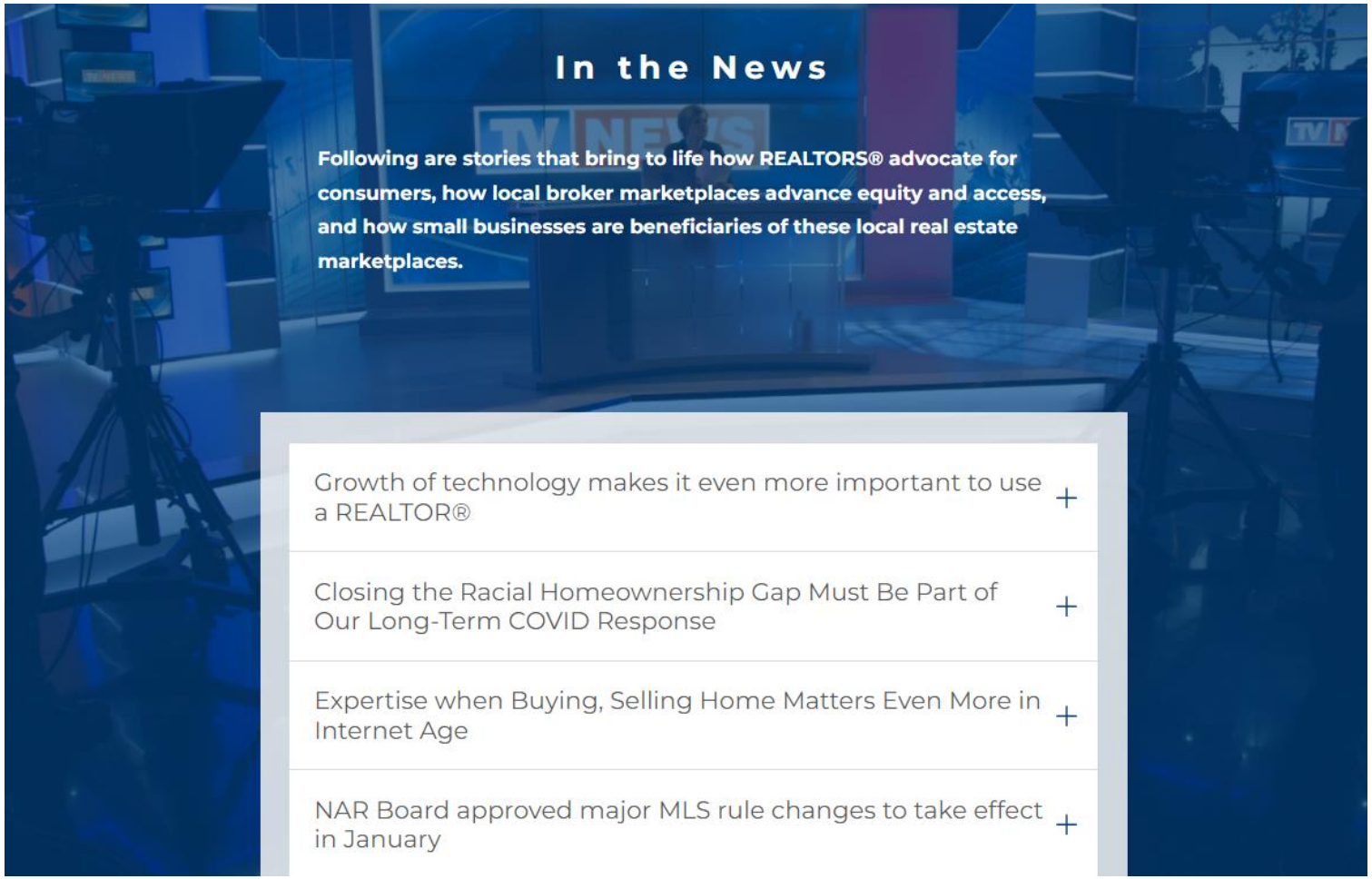
NEWS



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HOW COMMISSIONS WORK

How Real Estate Commissions Work

It's important for consumers looking to experience the American dream of homeownership to understand how real estate agents are paid for the services they provide. At the outset, the seller and that person's listing broker agree on the amount the listing broker will receive for the services it provides to the seller. The listing broker and seller also discuss and agree upon an amount that the listing broker will pay a broker who successfully closes the transaction with a ready, willing and able buyer. Here are seven additional things you need to know.

1. Commissions are always negotiable.

Commissions can be negotiated at any point throughout the transaction, including at the outset, after the results of a home inspection and after an offer has been made. Sellers negotiate with their broker what fee they are willing to pay for their broker's services and the amount the listing broker offers to pay a cooperating buyer broker who brings a buyer for their home.

2. There are different commission models to choose from.

Buyers have many different choices about which broker they want to work with in terms of everything from the commission model to a real estate agent's particular expertise to the agents' customer service approach. In the full-service approach, commissions are negotiable at any point during the

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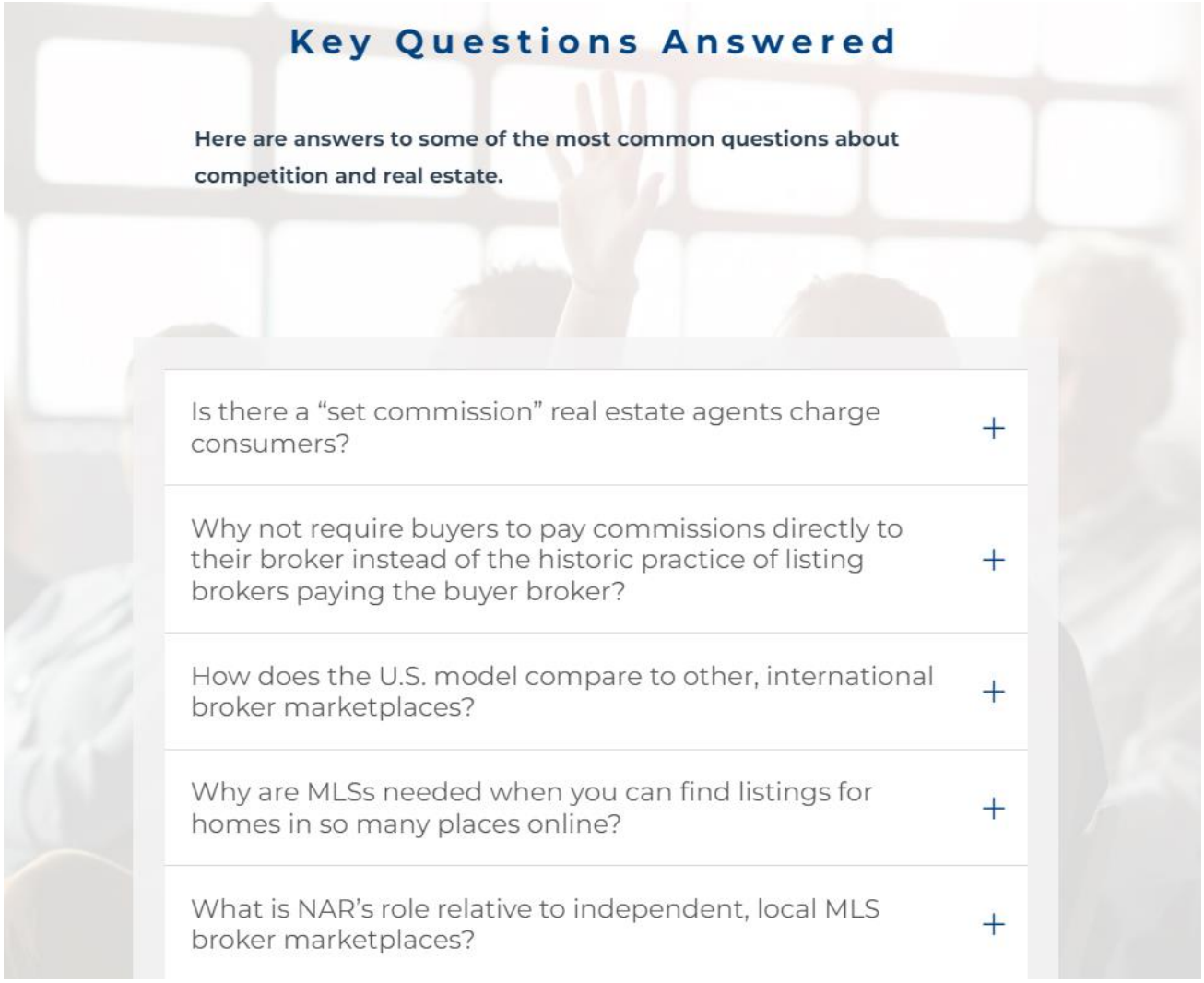
KEY QUESTIONS



- Why should real estate professionals make the money they do in commissions when so much information is available online? +
- How does NAR promote access to homeownership? +
- How is NAR promoting equity in homeownership? +
- How do real estate professionals advance the economy? +
- What is happening with NAR and the Department of Justice? +
- How has NAR moved forward on what it agreed to with the DOJ? +
- What’s happening with class action lawsuits challenging how local broker marketplaces work? +
- What’s going on with lawsuits NAR is facing that challenge the Clear Cooperation Policy? +
- What is NAR’s thoughts on a certain industry participant who is regularly attacking NAR? +

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THANK YOU

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