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# How can Internet and other new business models affect competition?

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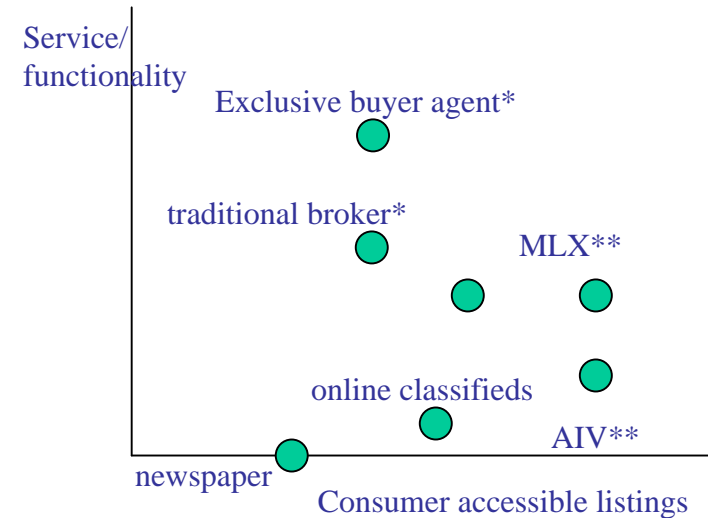


# The Real Estate Market in 2005

Internet-based real estate models with efficient cost values abound...

- Zip Realty
- Aaron Farmer's Texas Discount Realty
- Tom Early's Exclusive Buyer Agency
- MLX
- BrokersNYC

... but constraints are imposed by trade associations and state regulators.



\*real estate license required

\*\*AIV license required

# Manhattan's Rental Market Echoes Same Lessons as National Market

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Manhattan rental market is different from the rest of the country because:

- Two-thirds of residents are renters
- Apartment rentals are very pricey
- 50% of the available apartments pay the broker's are accessible only through brokers
- Renters who use a broker commission which is typically 15% of the first year's rent

But, just as in home sales markets nationwide, consumers want access to listings, updates, and communication tools.

# How Would You Find An Apartment in Manhattan?

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WANTED: 1 bedroom apartment, 600 sf, for \$2700/month

## Apartment Hunting Options:

1. For \$0, you're on your own – you can pound the pavements and read the New York Times.
2. For \$4860, a full service broker will locate suitable apartments, make appointments, accompany you to apartments, and help you get approved by the landlord.
3. Or, for \$149, you can subscribe to an online brokerage service that aggregates and updates rental listings and is available by phone, email and in the office to answer questions and give advice. With this service, you would be tapping into the same pool of apartments that brokers rent for a 15% commission.



# Value Proposition to Consumers

Informal survey shows consumers' valuation of itemized activities.

RENTER		BUYER		SELLER	
	Value to Renter		Value to Buyer		Value to Seller
				CMA/Sold info	30%
				Setting Price of Property	10%
				Listing property on MLS	5%
Access to all Listings	42%	Access to all Listings	50%		
				Advertising/marketing to public	24%
				Staging home for viewing	0%
				Hosting Open Houses	2%
Receiving alerts of new properties	28%	Receiving alerts of new properties	30%	Updates of price changes for comparable properties	10%
Scheduling appointments	7%	Scheduling appointments	0%	Scheduling appointments	5%
Accompanying renter to see homes	3%	Accompanying buyer to see homes			
		Consultation/Second opinion	12%		
Negotiating	7%	Negotiating	0%	Negotiating	10%
		Arranging Home inspection	0%		
		Writing Offer	5%	Preparing paperwork	2%
Coordinating lease signing	13%	Coordinating closing	3%	Coordinating closing	2%
	100%		100%		100%

# Three Categories of Brokers' Services

Value proposition forms 3 categories

1. Access and communication tools related to listings and updates
2. Broker knowledge and experience
3. Administrative duties

Access to information is important, brokers' experience much less so

RENTER		BUYER		SELLER	
	Value to Renter		Value to Buyer		Value to Seller
				CMA/Sold info	30%
				Setting Price of Property	10%
				Listing property on MLS	5%
Access to all Listings	42%	Access to all Listings	45%		
				#Advertising/marketing to public	24%
				#Staging home for viewing	0%
				#Hosting Open Houses	2%
Receiving alerts of new properties	28%	Receiving alerts of new properties	30%	Updates of price changes for comparable properties	10%
#Scheduling appointments	7%	#Scheduling appointments	0%	#Scheduling appointments	5%
+Accompanying renter to see homes	3%	+Accompanying buyer to see homes	0%		
		+Consultation/Second opinion	12%		
		+Negotiating	5%	+Negotiating	10%
		#Arranging Home inspection	0%		
		+Writing Offer	5%	+Preparing paperwork	2%
+Coordinating lease signing	13%	#Coordinating closing	3%	#Coordinating closing	2%
TOTAL	100%	TOTAL	100%	TOTAL	100%
Information/communication related	70%	Information/communication related	75%	Information/communication related	55%
+Broker experience	23%	+Broker experience	22%	+Broker experience	12%
#Administrative	7%	#Administrative	3%	#Administrative	33%
TOTAL By Category	100%	TOTAL By Category	100%	TOTAL By Category	100%

# MLX Builds an Open MLS in Manhattan

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MLX is afforded the opportunity to create an open “Listing Service” in Manhattan – accessible to consumers and real estate professionals – to address four problems:

1. There was no MLS for brokers in Manhattan, which was inefficient for brokers and consumers.
2. Renters were looking for alternatives to the 15% broker’s commission.
3. Buyers wanted direct access to properties for sale.
4. Sellers wanted to pay lower broker commissions.



# The Original MLX Business Model as of 1995

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MLX was a hybrid brokerage, MLS and bi-directional matching service for consumers and real estate professionals:

For tens of thousands of consumers: subscription based service with Virtual Office Website functionality.

- Renters and buyers had 24/7, on-demand, real time access to matched listings, live assistance for advice, and they could be contacted by landlords and brokers.

Landlords and sellers

- could post listings for free and see “Apartment Wanted” ads, or for a fee, they could feature their listings

3000+ real estate agents

- MLX’s BrokersNYC service provided a platform to list and search properties, along with client management services, web design and hosting.





## State Regulation Steps In

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The 1975 Apartment Information Vendor Law requires any entity which takes an “advance” fee and furnishes information concerning rental properties to be licensed. Not applied to newspapers.

- AIV licensure would have required MLX to terminate all features desired by consumers: on-demand, real-time access, previews of specific apartments before they invested in a paid membership.
- As a licensed AIV, MLX would have incurred fines of \$10 million a day for our online partnerships with Yahoo, Rentnet, and other online portals.
- MLX had no consumer complaints and its FREE Guest accounts afforded more protection to consumers than ever contemplated by the AIV law.
- MLX was operating the same service for 3000 real estate brokers.
- Every licensed AIV, in order to have a viable business, had a license but knowingly violated all the rules.
- NY Department of State refused to enforce compliance by licensed AIVs.

# Regulators Use “Obsolete” AIV Law to Limit Competition

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Ten years later, NYDOS still uses the “obsolete” AIV law to limit competition.

- January 1995: New York Secretary of State Treadwell says AIV law is “onerous” and “should be amended”
- February 1999: MLX served with complaint to obtain an AIV license
- January 2000: LLW’s broker’s license revoked for operating a unlicensed AIV
- 2000 – 2004: LLW appeals; writ of certiorari to U.S. Supreme Court denied
- August 2003: LLW applies for AIV license
- March 2004: New York Department of State denies AIV license
- December 2004: Judge grants AIV license
- January 2005: NYDOS opposes AIV license
- June 2005: NYDOS Proposed Rule Making calls AIV law “obsolete”
- February 2006: NYDOS Hearing to revoke LLW’s AIV license

# Many Forms of Anticompetitive Behavior

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Anticompetitive practices take the form of

- Trade association policies regarding member brokers and the mechanics of MLSes.
- Trade association policies regarding display and access to listings by consumers.
- Trade association influence at the state level to legislate swift passage of unfriendly laws such as minimum level of service or anti-rebate laws.

# Balance the Interests of Regulators, Licensees, and the Public

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How do we tap into the potential of the internet's enabling technology?

1. Break real estate brokers' stranglehold on information so that:
  - Consumers can consider all suitable properties instead of being directed by brokers to those properties with the highest commissions
  - Landlords and owners directly or via their brokers cannot steer consumers based upon racial or other profiling
  - Consumers can "purchase" the services they want
2. So long as there is disclosure and fulfillment of promised services, enable brokers to craft a variety of business models and define which services are free and which they charge for so that:
  - Brokers can differentiate themselves including pursuing models other than 100% commission.
  - Consumers can choose the unbundled services they want
3. Encourage competition by removing artificial barriers to entry
  - From trade association influence
  - From state laws and regulations

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