



# CONSUMER MARKET STUDY ON THE FUNCTIONING OF REAL ESTATE SERVICES FOR CONSUMERS IN THE EUROPEAN UNION

## Executive Summary

October 2018

### 1) Objectives, scope and main tasks

The real estate services market was identified in the European Commission's Consumer Market Scoreboard (2016 edition) as underperforming for EU consumers on a range of issues. The sector is complex, with a large number of different parties involved and information asymmetries exist between providers of real estate services and consumers. This study explores regulation, market practices, problems and understandings between all parties interacting in the sector.

In January 2017, Ipsos, London Economics and Deloitte were commissioned to conduct a consumer market study on the functioning of the real estate services market, in order to:

- Explore the existing regulatory framework for real estate services, the regulatory costs incurred by different actors in the market, and the extent to which the framework provides sufficient protection for consumers who are letting, buying, or selling a property in their own country or cross-border;
- Document the relevant practices in the real estate service market, and investigate the nature and prevalence of consumer problems;
- Provide a better understanding of the way consumers perceive information on real estate services, and its impact on consumers' purchasing decisions; and
- Draw conclusions on e.g. the need for enforcement and awareness raising activities.

Market activities covered by the study are: (1) intermediation in buying, selling and rental of real estate on a fee or contract basis, and (2) advisory activities and appraisal services in connection to buying, selling and rental of real estate, on a fee or contract basis.

Between January 2017 and March 2018, several tasks were carried out:

- A literature review, information collection about national rules and the generation of national country fiches, a stakeholder consultation with consumer protection agencies, national competent authorities, homeowner and tenants' associations, and focus groups in Germany and the Netherlands.
- A price collection exercise that collected intermediation and advisory fees for the buying/selling and renting/letting of properties, in all 28 Member States, Iceland and Norway.
- Mystery shopping in eight countries, which evaluated whether clear and comparable information on about real estate properties is provided on real estate websites (480 website

evaluations), and whether consumers receive clear and comparable information when visiting a real estate agent to enquire about the possibility for selling or letting a property (320 in-store evaluations).

- An online consumer survey in 28 EU Member States, Norway and Iceland.<sup>1</sup> The survey targeted consumers who had either let, rented, bought or sold a real estate property during the past seven years (since 2010), or who have attempted to let, rent, buy or sell real estate during this time frame. In total, across the EU28, Iceland and Norway, 12,781 respondents responded to the section about buying or renting properties and 5,189 respondents answered questions about selling or letting real estate properties.
- A behavioural experiment, conducted in France and the UK, addressing two key objectives in the context of consumers' search for information on real estate advertisements: (1) how easy it is for consumers to find and assess information; and (2) how much information can be 'digested' by consumers. The experiment was run in conjunction with the consumer survey; in total, 2,004 respondents completed the experiment.

## 2) Regulation on conveyancing/renting and regulation of real estate agents

**Conveyancing and residential tenancies are largely regulated by national laws** showing a very high degree of diversity across the 30 countries in scope of the study. In all EU Member States (and Iceland and Norway), the *lex rei sitae* rule applies, whereby transactions are governed by the law of the state in which the property is located. More than half of stakeholders surveyed as part of this study (14 out of 26 or 54%) think there is a need to further regulate market practices with the goal to improve levels of consumer protection against unfair commercial practices.

**A debate on the level of regulation of the activities carried out by real estate agents is ongoing in several Member States.** Advocates of more regulation of the real estate services argue that stricter regulatory measures would improve the quality of services delivered. Moreover, insights from legal experts consulted as part of this study suggest that absence of regulation for the activities performed by the real estate agents may be regarded as a functional gap, and may even result in legal uncertainty. Those supporting less regulation of the profession argue in turn that a high level of regulation may be detrimental to the level of competition in the market. In any case, the study did not identify a specific need for the regulation of the profession as such.

## 3) Information provision about properties placed on the market

### *Information channels and amount of information provided*

Consumers in the real estate market mainly refer to **online ads, property websites and websites of real estate agencies to look for information about properties.** The consumer survey showed that, among respondents who had bought or rented a property in the past seven years (or who had attempted to buy or rent a property), 63% had looked at real estate agencies' websites, 54% had visited property websites (not linked to a specific real estate agent) and 33% had searched for advertisements on the internet.

The information provided about properties on websites was analysed by mystery shoppers in a two-step approach: first, the information offered for a comparative overview of properties, and then the specific details made available for one particular property. Almost all websites were found to contain **pictures, details about the asking price/monthly rent and the location of the property.** Other common pieces of information are the **surface area of the property, the number of rooms in the property and a list of key features.**

Mystery shoppers tended to be satisfied with the amount of information provided on overview pages about the size of the properties and the total cost for renting/buying, but tended to think that **information was insufficient regarding the amenities and features of the properties, and energy performance.** Individual property pages scored better than overview pages, but also showed issues with information provision about energy performance. For example, 67% of shoppers answered that the property page did not contain enough information about the energy performance of the property.

The behavioural experiment conducted in France and the UK systematically varied the amount of

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<sup>1</sup> In Cyprus and Malta, the survey was conducted using a computer aided telephone interviewing (CATI) method.

information provided and found that respondents' **performance on objective comprehension questions and their appreciation of real estate advertisements meaningfully improved when key information was provided**. When evaluating properties' key features/amenities, respondents performed best when this information was provided using **a consistent list of icons**, which allowed easy comparison across different properties. The mystery shopping exercise, however, found that icons which indicate whether certain features are present or not, were used on less than one in five websites.

#### *Clarity and comparability of information*

A majority of respondents in the consumer survey answered that clear and reliable information about the characteristics of the property, selling price/monthly rent and information about who sells the property had been very or rather easy to find. A different picture emerged when respondents were asked about **real estate agency fees for the property, energy performance of the property and expected charges for (common) utilities**. Although findings from the behavioural experiment show that respondents are aware that energy performance certificates for properties exist, and that they aim to provide clear and comparable information about the property's energy efficiency, the experiment suggests that **consumers find it difficult to use energy performance certificates to compare properties**.

In line with the findings from the consumer survey, most respondents in the behavioural experiment claimed that they found it easy to understand the real estate advertisements that were shown to them. Yet, a significant share of respondents was unable to provide correct answers to comprehension questions regarding the advertisements. Most importantly, respondents often failed to appreciate when they were not given enough information to answer questions. This type of unawareness, i.e. **perceiving that information is 'easy to assess' while in fact the objective ability to understand the information might be low**, could be an indicator of vulnerability in the market. The experiment furthermore found evidence that roughly **one in four consumers tends to be overconfident in their ability to assess real estate advertisements**. Overconfidence could lead to numerous problems in the real estate market – consumers may misunderstand information, yet feel confident that they correctly understood the information presented. This could, for example, lead consumers to continue the process of buying/renting a property that might in fact be unsuitable for them.

**Comprehension of real estate advertisements in the behavioural experiment was significantly increased by targeted remedies that were designed to increase transparency or comparability of the information provided** (e.g. the share of correct answers given to comprehension questions was higher in remedy conditions that consistently showed respectively, property size, EPC ratings and key amenities via icons, compared to the other experimental conditions; furthermore self-rated ease of understanding equally improved). It thus seems that consumers could significantly benefit if information disclosure was clearer, more transparent and comparable.

#### *Missing and misleading information about properties*

About one in five (22%) survey respondents, across the EU28, who had recently bought/rented a property (or who had attempted to do so), mentioned problems with **missing information about damage to the property**, 17% referred to **missing or misleading information about energy standards** and 12% to **false and untruthful information about charges for utilities**. The behavioural experiment found robust evidence on the extent to which consumers might be harmed by misleading/omitted information. Respondents in the behavioural experiment were often unaware of the type of information they were missing which lead them to rely on other, potentially misleading information instead. For example, respondents who did not realise that they were not given information on property size often estimated the size of a property using pictures, or the number of rooms in the property. The behavioural experiment also found that respondents appreciated and performed better on the comprehension questions when property advertisements contained more comprehensive information compared to more simplistic formats. These two findings show that the provision of comprehensive information about the property is important for consumers. However, while the experiment did not identify when too much information leads a deterioration in consumers understanding, it is important to keep in mind that information overload can lead to problems in consumer decision-making due to cognitive limitations.

## **4) Choice in the market for real estate services (selling and letting properties)**

### *Choosing a real estate agent*

Very few respondents in the consumer survey reported that they had decided to work with a specific real estate agent because it was the only agent in their area. **In most countries, consumers are not faced with such a lack of choice; nonetheless, less than half (44%) of survey respondents who had recently sold or let a property via a real estate agent, had compared real estate agents before making their eventual choice.**

When asked what had made consumers decide to use the real estate agent they had selected, 39% referred to the real estate agent's reputation and professionalism, 21% said that the real estate agent had been recommended by an acquaintance and 17% had used the agent before. One in five respondents (21%) explained that they had chosen the real estate agent based on their valuation of the property, while 22% had considered the real estate agency's fees. One in four respondents (27%) referred to the location of the real estate agent.

#### *Contract types and sales tactics*

The consumer survey found that, across the EU28, when selling or letting a property through a real estate agent, **simple mandate contracts<sup>2</sup> were more common than exclusive mandate contracts<sup>3</sup>** (46% vs. 31%). In a small number of countries (Belgium, the UK, Sweden and Iceland), exclusive mandates were more regularly used than simple mandates. In the consumer survey, roughly 4 in 10 (38%) consumers who had sold/let a property through a real estate agent, reported that **they had not been offered a choice between different types of contracts**, and 24% replied that they had not been able to negotiate any of the conditions of the contract.

A large majority of survey respondents agreed that the **real estate agent had helped them to understand the conditions and obligations of the contract**. Similarly, a large majority of mystery shoppers across both scenarios agreed when asked whether the real estate agent had provided clear information about conditions and obligations of their contract and whether the real estate agent had helped them to understand these conditions and obligations.

#### **5) Real estate agency fees and other costs**

**Which party pays the real estate agent fees varies widely across the countries in scope**, with fees being paid by seller/landlord (who hired the real estate agent), by the buyer/tenant or both parties.

Real estate agent intermediation fees for conveyancing range from 1.13% of the sale price (in Scotland) to 6.5% of the sale price (in France – where fees include VAT and other taxes); in Greece, Croatia and Latvia, fees for real estate agents are freely negotiable.

In 26 out of the 30 countries in scope, real estate agent fees for finding and matching landlords and tenants are expressed as *n* months' rent; in the remaining countries, fees are expressed as a fixed amount (Lithuania and Sweden) or are freely negotiable (France and the Netherlands). In 22 countries fees are generally equal to one month's rent (or less). In Denmark, fees usually correspond to three months' rent; in Austria, Greece and Germany, fees correspond to two months' rent.

Mystery shoppers in this study tended to agree that **real estate agents provide clear information about their fees and costs when hiring them to sell or let a property. A different picture emerged when looking at the transparency of real estate agency fees when buying or renting a property:** 39% of survey respondents found it difficult to obtain information on real estate agent fees for buying or renting a property. Moreover, 9% of survey respondents had not been made aware of the fee amount they would be charged by the seller's/landlord's real estate agent before deciding to buy/rent the property, and 35% said they had only been aware of the fee amount "to some extent".

The behavioural experiment tested the impact of different framing of cost information. As long as price features (e.g. residential taxes or stamp duty) were consistently displayed across all properties, framing the information differently (e.g. by displaying tax amounts separately, or showing prices inclusive of all taxes) had no effect on consumer comprehension of the information.

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<sup>2</sup> Contract whereby the owner of a property puts a real estate agent in charge of selling/letting the property, for a limited period of time but without giving the real estate agent any exclusive rights; simple mandates can be signed with several real estate agents/agencies for the same property.

<sup>3</sup> Contract whereby the owner of a property puts a real estate agent in charge of selling/letting the property, exclusively and for a limited period of time.

## 6) Consumer problems and complaints

During the focus group conducted in Germany, **a clear asymmetry of information and power between the different types of actors in the real estate market** became apparent. On the one hand, participants that deal frequently with real estate transactions are very well informed about the market and their rights. This was the case for landlords or real estate agents that know market practices, processes and procedures. On the other hand, consumers who have less experience in the market are generally less informed about their rights, applicable procedures, and market best practices.

A majority of participants in the stakeholder consultation reported that **consumer detriment may result from this imbalance of power/information between the consumer and the real estate agent**. As noted above, 22% of survey respondents, who had recently bought/rented a property, had experienced problems with missing information about damage to the property and 17% with missing or misleading information about energy performance.

Among respondents who had sold or let a property, roughly one in six (16%) answered that the real estate agent had put little effort in advertising the property, 7% said that the real estate agent only put in an effort at the end of the contract and another 7% was faced with delays in the completion of the sale/lease. A tenth of respondents reported that the real estate agent had made errors when handling queries and negotiations and 7% replied that the property had not been correctly advertised. Finally, 10% of consumers had felt pressure to advertise the property at a price lower than average and 7% to sell or let the property at a price lower than average.

**Although consumer problems were frequent, just one in four survey respondents who had experienced a problem, submitted a complaint about the problem.** Among consumers who submitted a complaint, a majority addressed the complaint to the real estate agent. Of the survey respondents who had complained to the real estate agent, about an equal share of respondents tended to be satisfied and dissatisfied with the way their complaint had been dealt with.

### *Information provision about handling complaints*

Among mystery shoppers who had visited a real estate agent's office, a little over a third (36%) agreed that the **real estate agent had provided them with feedback about their rights in case the real estate agent did not keep to their side of the contract** and roughly 4 in 10 agreed that the real estate agent had provided clear information on the procedures for handling complaints. Roughly 9 out of 10 mystery shoppers did **not find any information on the real estate agent's website about what to do if they had a complaint**, and how their complaint would be handled. Contact details of a consumer association (or the ECC), tenants/homeowner association or an ADR body were found on 15% of real estate agents' websites.

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