



Unit

# 11

## Marketing and Social Media

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### In This Unit

The marketing plan • Advertising according to state and federal laws • The national and state do-not-call registries • CAN-SPAM Act and Junk Fax Prevention Act • Marketing on social media

### Learning Objectives

**When you have completed this unit, you will be able to accomplish the following.**

- Describe the importance of mission statements and marketing plans that effectively promote the brokerage and its associates, the properties for sale and lease, and the services offered to its customers and clients.
- Develop and distribute advertising that complies with state and federal laws and the FREC's rules.
- Select appropriate social media and create postings and advertising to market a brokerage's listings and services in a responsible manner, compliant with all applicable real estate laws.

### THE MARKETING PLAN

It is often said that marketing takes four Ps into account in developing a marketing plan. The four Ps are *product*, *price*, *place*, and *promotion*. Let's add a fifth P—effective marketing is also dependent on *planning*. Licensees who are successful in today's market need to understand all facets of the real estate business, available properties, the needs and wants of customers, and effective ways to communicate and promote products and services. Brokers and associates should develop marketing plans with the tools to accomplish the goals described in the plan.

## The Mission Statement

A successful real estate career that will withstand the highs and lows of competition, demand, supply, and constantly changing consumer preferences depends upon a well-considered, carefully written, and consistently executed marketing plan that is reviewed and updated regularly. While a broker or associate can list and sell properties without thinking through how these transactions fit within the larger framework of their business, doing so is like traveling to a new destination with instructions written on the back of a napkin rather than with directions formed with the precision of a GPS. You *might* reach the destination using the scribbled notes, but you do so with more uncertainty, additional stress, and less confidence.

At the heart of the marketing plan is a specific mission statement. The mission statement answers the who, what, where, why, and how of the business. Often, sales associates and broker associates don't recognize that they have a business within the business of the brokerage with which they have registered. It is just as important for associates to have a mission statement as it is for the brokerage to have one. Clearly, an associate's mission should complement that of the associate's broker. For example, if the broker's business is property management for shopping centers and an associate's desire is to specialize in single-family residential sales, the associate's mission is not in harmony with that of the broker.

### IN PRACTICE

Some brokers are so eager to hire associates and some associates are so excited to get started in their new career that the broker and the associate never discuss whether they are compatible regarding the customers they wish to serve. Both should have mission statements that clearly describe their businesses, and they should share these during the interview process.

## Developing the Marketing Plan

Once the mission statement has been drafted, a marketing plan is written that implements the mission statement. The marketing plan, by identifying the proper mix of *product, price, place, and promotion*, allows the licensee to chart in detail the direction the licensee wants to take his or her business and how the licensee proposes to get there.

One of the ways that the marketing plan can add discipline and design to a licensee's business is to describe how the licensee's services will be promoted to the target market. For example, an associate might feel that the testimonials from satisfied buyers and sellers will be the best way to gain new customers. In that case, the associate will use the marketing plan to outline the steps to successfully request testimonials.

The marketing plan should be revised at least once a year to include projected listings and sales, the expected purchase price for the sales, and the resulting income generated by the licensee. Current, successful marketing and advertising approaches should be carried over to the next year, while new, creative strategies and methods should be added.

## Practice Questions

1. A broker wants to be sure that a certain brand of coffee is always purchased by the receptionist for the office. This belongs in the broker's marketing plan.
  - a. True
  - b. False
2. A successful associate tends to think about the next sale rather than the long-term impact of a transaction on his business.
  - a. True
  - b. False
3. Broker and associate mission statements should complement each other so that the broker can assist and direct the associate.
  - a. True
  - b. False

## ADVERTISING ACCORDING TO STATE AND FEDERAL LAWS

### Advertising

The FREC requires a broker's advertising to be done in a way that most people would understand they are dealing with a real estate licensee. For example, real estate advertisements, including the print media, business cards, signs, handouts, and novelty items, must include the licensed name of the brokerage firm (the name as it is registered with the DBPR). If an advertisement does not include the name of the firm, the ad is a blind ad and violates the law.

### Advertising Membership in Associations and Professional Designations

Brokers and sales associates may not advertise that they are members of an association or that they hold a professional designation from a professional association unless the licensee is currently a member. Doing so constitutes false, deceptive, or misleading advertising.

For example, a licensee may not use the term REALTOR® on business cards or other advertising unless the licensee is a member of the National Association of REALTORS® (NAR). A licensee cannot state in advertising that she is a GRI (Graduate, REALTOR® Institute) unless she has actually achieved that designation.

### Advertising Personal Names

If licensees use their first name in a real estate advertisement, their last name as registered with the DBPR must be included at least once. The brokerage firm's name must be included to avoid charges of blind advertising. For example, Joseph J. Perkins, a sales associate, could place an advertisement stating "Call Joe for more information," provided the ad includes the brokerage firm's name and Joe's last name, at least once, somewhere in the ad.

Business cards must include the licensed name of the brokerage firm, and if using the licensee's personal name, at the very least, the licensee's last name must be shown. The card may not include any fraudulent, false, deceptive, or misleading information, and it must be clear that the person listed is a real estate licensee [61J2-10.025(2)].

## Internet Advertising

When advertising online, the brokerage firm name must be placed next to or immediately above or below the point of contact information. Point of contact information refers to any means by which to contact the brokerage firm or individual licensee, including mailing address, physical street address, email address, telephone number, or fax number [61J2-10.025(3)(a)].



**Caution**

### IN PRACTICE

#### **Brokers: Check those websites**

Periodically check your sales associates' websites to ensure they're following the law. Sales associates should also review their sites to ensure they meet the legal requirements. Expired listings should be promptly removed from the websites.

## Team Advertising

The FREC approved Rule 61J2-10.026 regulating team advertising, effective July 1, 2019, which says the following:

- (1) "Team or group advertising" shall mean a name or logo used by one or more real estate licensees who represent themselves to the public as a team or group. The team or group must perform licensed activities under the supervision of the same broker or brokerage.
- (2) Each team or group shall file with the broker a designated licensee to be responsible for ensuring that the advertising is in compliance with Chapter 475, Florida Statutes, and division 61J2, Florida Administrative Code.
- (3) At least once monthly, the registered broker must maintain a current written record of each team's or group's members.
- (4) Team or group names. Real estate team or group names may include the word "team" or "group" as part of the name. Real estate team or group names shall not include the following words:
  - (a) Agency
  - (b) Associates
  - (c) Brokerage
  - (d) Brokers
  - (e) Company
  - (f) Corporation
  - (g) Corp.
  - (h) Inc.
  - (i) LLC
  - (j) LP, LLP, or Partnership
  - (k) Properties
  - (l) Property
  - (m) Real Estate
  - (n) Realty
  - (o) Or similar words suggesting the team or group is a separate real estate brokerage or company
- (5) This rule applies to all advertising.
- (6) In advertisements containing the team or group name, the team or group name shall not be in larger print than the name of the registered brokerage. All advertising must be in a manner in which reasonable persons would know they are dealing with a team or group.
- (7) All advertisements must comply with these requirements no later than 12 months following the effective date of this rule.

The FREC has stated that a website domain name or the email address of a team may contain a word prohibited by 61J2-10.026. However, this applies to domain names and email addresses only.

Nothing in this rule shall relieve the broker of the legal obligations under Chapter 475, Florida Statutes, and division 61J2, Florida Administrative Code.

## **THE NATIONAL AND STATE DO-NOT-CALL REGISTRIES**

In 2003, the Federal Communications Commission (FCC), exercising its authority under the Telephone Consumer Protection Act (TCPA), established the National Do Not Call Registry. The registry is a list of phone numbers of consumers who do not want to be contacted by commercial telemarketers. Consumers can register for free their home and cell phone numbers. The registry is managed by the Federal Trade Commission (FTC), the nation's consumer protection agency, and is enforced by the FTC, the FCC, and state officials.

Do-not-call rules cover the sale of goods or services by telephone or text messages. Solicitations by political organizations and charities, telephone surveyors, or companies with which consumers have existing business relationships are exempt from the do-not-call rules. Unless waived by signature, a company may call a consumer, even if that consumer is on the registry, for no more than:

- 18 months after that consumer's last purchase, delivery, or payment; or
- 3 months after that consumer makes an inquiry or submits an application to the company.

If the consumer asks the company not to call again, the company must honor the request.

### **Scammers' Call Volumes Have Increased**

The FTC reports that they now receive four times the number of complaints that they did in 2009. Scammers have found new ways to "spoof" the identification of the caller. Robocallers have set up shop in foreign companies, but they can disguise the incoming number to look like a local call.

For example, a simple cell phone app allows the caller to impersonate a government agency ("IRS" pops up on your screen). The callers may demand that the recipient pay back taxes. Other callers may impersonate Microsoft, asking the recipients to go to their computers and allow the caller access to the computer to fix a glitch. The caller can then implant a virus in the computer to gather sensitive information.

Phone companies now have the technology to block robocalls, but they say they need legal barriers removed before they can implement the technology.

Apps are available for smartphones that allow users to block spammers.

### **Accessing the National Do Not Call Registry**

Sellers, telemarketers, and other service providers must apply for access to the registry and may register on the FTC website. The National Do Not Call Registry may not be used for any purpose other than preventing telemarketing calls to the telephone numbers in the registry. The only consumer information available from the registry is telephone numbers. The numbers are sorted and available by area code. Companies are able to access as many area codes as desired. For example, they may select all area codes within a certain state.

Any telemarketers covered by the rule must pay for consumer data in any area code before they call any consumer within that area code, even those consumers whose telephone numbers are not on the registry. Data for up to five area codes is free. The exceptions are for:

- sellers who call only consumers with whom they have existing business relationships,
- sellers who have written agreements allowing them to call, and
- real estate licensees who have a bona fide prospect when calling for sale by owners.

A company that is a seller or telemarketer could be in violation of the law for placing any telemarketing calls (even to numbers not on the National Do Not Call Registry) if the company has not paid the required fee for access to the registry. Companies that illegally call numbers on the National Do Not Call Registry or place an illegal robocall can currently be fined up to \$43,792 per call.

If a seller or telemarketer can show that, as part of its routine business practice, it meets all of the following conditions, it will not be subject to civil penalties or sanctions for mistakenly calling a consumer who has asked for no more calls or for calling a person on the National Do Not Call Registry. To successfully avoid penalties (“safe harbor”), the sellers or telemarketers must demonstrate that:

- they have written procedures to comply with the do-not-call requirements;
- they train their personnel in those procedures;
- they monitor and enforce compliance with these procedures;
- they maintain a company-specific list of telephone numbers that they may not call;
- they access the national registry no more than three months before calling any consumer and maintain records documenting this process; and
- any call made in violation of the do-not-call rules was the result of an error.

The best source of information about complying with the do-not-call rules is the National Do Not Call Registry’s website at <https://www.donotcall.gov>. It includes business information about the registry.



### Florida Do-Not-Call Program

Florida continues to enforce the Florida Do-Not-Call Program and accepts new consumer telephone numbers. The national registry supersedes portions of the Florida law that are less strict. Solicitation of business from a person on the Florida list carries a \$10,000 fine. It’s easy to subscribe to protect residential and mobile phone numbers by visiting <https://www.fdacs.gov/Consumer-Resources/Florida-Do-Not-Call>.



### IN PRACTICE

#### Review the list and check it twice

Before placing a call, you should ensure that the consumer is not on any of the following lists:

- National Do Not Call Registry
- Florida Do-Not-Call Program
- Your broker’s own in-office list

You can call a for sale by owner (FSBO) in the national registry if you have a buyer who wants to purchase the property, but you may not use the call to discuss listing the property. The Florida Do-Not-Call Program allows persons licensed under Chapter 475 to call “an actual or prospective seller or lessor of real property when such call is made in response to a yard sign or other form of advertisement placed by the seller or lessor” [501.059(4), F.S.].

## CAN-SPAM ACT AND JUNK FAX PREVENTION ACT

In addition to the national and state do-not-call registries, there are also federal laws governing email and fax advertising. If brokers or associates plan to use either of these two methods to advertise listings, other products, or services, the applicable laws should be consulted prior to their use.



Information is available at the FTC's website about the CAN-SPAM Act: <https://www.ftc.gov/tips-advice/business-center/guidance/can-spam-act-compliance-guide-business/>.

For information about the Junk Fax Prevention Act, visit <https://www.fcc.gov/guides/fax-advertising/>.

### Practice Questions

4. Under the Florida Do-Not-Call Program, a FSBO on the Florida list may be contacted by a broker or an associate to solicit a listing.
  - a. True
  - b. False
5. If a consumer who made a purchase from a company is on the National Do Not Call Registry, the company may not call that consumer 12 months after the purchase.
  - a. True
  - b. False
6. The FREC's rules about team advertising allow a team to advertise without mentioning the team's registered broker.
  - a. True
  - b. False
7. When the name of a licensee is used in advertising, the licensee's last name as registered with the DBPR must be included at least once.
  - a. True
  - b. False

## MARKETING ON SOCIAL MEDIA

A serious marketing plan for real estate services today must include how the brokerage intends to use social media. Just like websites had become a "must" for brokers beginning in the 1990s, the wise selection and use of social media is a "must" for brokers today.



It is important that brokers and their associates understand that *all* the laws and FREC rules applicable to advertising apply to listing and services promoted over social media (see preceding section). Associates sometimes include the listings they have procured on their personal Facebook or other personal social media pages and include only their names and contact information. This violates license law because the licensed name of the brokerage firm must be included on these ads.

### Selecting Social Media

Social media is just another advertising outlet. This is a good thing to keep in mind when considering the variety of social media that is available. Should brokers limit themselves to just LinkedIn or should they also use Facebook? What about Twitter, Instagram, Snapchat, or TikTok? Would Alignable, a new kid on the block with its emphasis on small business owners creating a network of local business

owners to generate referrals, be a good addition? Brokers who market listings will be interested in establishing a YouTube account to display videos of the interior and exterior of their listings. In this case, a broker might decide to explore the services of the many entrepreneurs who use camera-enabled drones to create overhead views of the home, lot, and neighborhood.

### IN PRACTICE

You shouldn't include every social media option in your marketing plan. In fact, some of the sites might leave a poor impression about your brokerage.

Ask yourself these questions (and research the answers from readily available sources on the internet):

1. Which social media sites do your customers and clients use? For example, if you are working in the retiree market, Facebook is likely a good choice and TikTok might be less appropriate.
2. Does the social media site have an image that can help (or harm) a brokerage's reputation? For example, a presence on LinkedIn will almost always enhance a brokerage's image.
3. Is the social media site popular enough among those in your target market to make it a viable option?

### Social Media Expense

Often, social media is viewed as a good advertising option because it is free. This can be misleading. In the case of some sites, such as LinkedIn, only the basic service is free while other features are subject to a fee. With other social media like Facebook, the page itself is free while ads designed to drive folks to your page to read your message can be expensive depending on the details of the advertising campaign—such as the daily cost and the number of days the ad is to run.

Brokers and associates who decide to use social media as an advertising outlet might decide not to pay for any out-of-pocket advertising in order to keep their costs low. This is a fallacy, as there is a cost to maintain these social media sites just like there is a cost to maintain a website. And like a website, a social media site that has little or no activity, has few followers/connections/friends, and lacks interesting information is worse than having no site at all. A knowledgeable administrator will be able to maintain this information as well as link the selected social media sites effectively and creatively to the broker's website and vice versa. Another reason to have an administrator who continuously checks, updates, and enhances these sites is that most have analytics which can help determine if the selected social media is worth the time and money being invested.

### Practice Questions

8. Brokerages that don't use social media will generally have a marketing advantage with younger buyers.
  - a. True
  - b. False
9. A broker who wishes to determine the cost to advertise his listings and services on his brokerage's Facebook page should consider not only the expense of paid advertising, but also the hours that need to be spent in administration of the page.
  - a. True
  - b. False



## Case Study

### DISCRIMINATION IN SOCIAL MEDIA

☉ **Facts:** On March 27, 2018, four nonprofit organizations—the National Fair Housing Alliance (NFHA), New York City–based Fair Housing Justice Center (FHJC); Housing Opportunities Project for Excellence, Inc. (HOPE) in Miami, Florida; and the Fair Housing Council of Greater San Antonio (FHCGSA)—were plaintiffs in a lawsuit against Facebook, Inc., filed in federal court in New York City, “alleging that Facebook’s advertising platform enables landlords and real estate brokers to exclude families with children, women, and other protected classes of people from receiving housing ads.” Those who have developed Facebook ads for their products and services know that Facebook allows advertisers to exclude and include various characteristics in order to target their advertisements to those who are most likely to want the goods or services offered by the advertiser. In this case, the plaintiffs claimed that real estate brokers and landlords could use this functionality to create ads that could exclude gender or family status, in addition to other Facebook users. This would result in advertising in violation of the Fair Housing Act.<sup>1,2</sup>

☉ **Practice Questions:**

5. A broker who develops an ad for one of the brokerage’s listings that will be used on Facebook would be in violation of the Fair Housing Act if the ad excluded certain classes of people who would see the ad. Which groups may the broker legally exclude?
  - a. Presbyterians
  - b. Families with children under 12
  - c. Attorneys
  - d. Those who need a disabled parking permit
  
6. Why is it difficult for a prospective homebuyer to know that an advertiser on Facebook has discriminated against them in violation of the Fair Housing Act?
  - a. Facebook users don’t pay attention to advertising.
  - b. Since the parameters of who sees the ad are set by the advertiser, a buyer who is not included in the targeted group would never know that the ad had even existed.
  - c. Homebuyers who see the ads don’t know what the protected classes are.
  - d. Facebook doesn’t allow paid advertising.

☉ **What Really Happened?** About a year later, on March 19, 2019, the plaintiffs (NFHA, FHCGSA, FHJC, and HOPE) settled their lawsuit with Facebook, which agreed to significant changes in its advertising platform.

“Facebook has now agreed to establish a separate advertising portal, the ‘HEC portal,’ for advertisers seeking to create housing, employment, and credit ads on Facebook, Instagram, and Messenger. The portal will limit advertisers’ targeting abilities to prevent them from illegally discriminating. Housing advertisers will no longer be allowed to target consumers based on race, ethnicity, color, national origin, gender, age, religion, family status, disability, or sexual orientation. Housing advertisers will also be prevented from advertising based on zip code. Instead, they will be permitted to advertise based on a 15-mile radius from a city center or address.”<sup>3</sup>

1. <https://magazine.realtor/daily-news/2018/03/28/facebook-accused-of-allowing-discrimination-in-housing-ads>
2. <https://nationalfairhousing.org/2018/03/27/facebook-sued-by-civil-rights-groups-for-discrimination-in-online-housing-advertisements/>
3. <https://nationalfairhousing.org/2019/03/18/national-fair-housing-alliance-settles-lawsuit-with-facebook-transforms-facebooks-ad-platform-impacting-millions-of-users/>