



# LEGAL HOTLINE Q&A

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## Question:

One of my agents said they wanted to update their website to allow advertising for preferred vendors but wanted to charge a small fee. Can she do that and if so, how does she go about it? I thought any money paid to an agent had to be run through their company?

## Answer:

In this scenario, broker will not be compensated for the provision of RE brokerage services so the compensation broker receives is not required to be paid through broker's firm. Instead, broker will be compensated for advertising. That fact opens a variety of additional questions for consideration. Is broker allowed to operate a website and collect revenues from advertisers on that website? This question potentially implicates laws outside the arena of real estate, laws with which the Hotline lawyer has no familiarity and about which, the Hotline lawyer cannot provide any education. Broker and/or DB would have to consult their own legal counsel for assistance in determining whether broker has the right/authority to collect advertising revenue for advertisements placed on broker's website.

Additionally, broker and DB must consider the limitations imposed by RESPA. Broker is prohibited from receiving anything of value from lender in exchange for the provision of referrals. Do this broker and lender refer business to one another? If so, RESPA prohibits broker from giving lender free or below-market advertising. Does the "small fee" that broker will charge lender represent market value for the advertising lender will receive? If not, then lender's advertisement on broker's website may violate RESPA.

There are many questions that broker and DB must consider with respect to the advertising plan broker intends to implement, using broker's real estate website. Most of the questions are not triggered by Washington's RE License Law or Agency Law. Broker and DB should consult with the firm's legal counsel for assistance in determining if broker's plan can be implemented and if so, if there are any additional concerns that must be addressed.

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