

Template for comments and secretariat observations

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ON			Ge	<p>This document fails to address major consumer concerns such as intransparent costs or deceptive and unrealistic presentation of properties by real estate agents. Consequently, the current version of the standard cannot be considered at all to be consumer-friendly and needs to be significantly improved before it can be submitted to formal vote. Without significant improvements, the document would have to be strongly rejected.</p> <p>A particular weakness of the draft is that it contains the numerous lists of examples and options instead of clear-cut normative requirements. In addition, the information provision and education/training/skills requirements are entirely inadequate.</p>		
ON	1 Scope		ge	It is unclear whether the current draft specifies requirements to apply to business-to-business transactions and/or to business-to-consumer transactions.	Clarify that the scope of the standard includes business-to-business and business-to-consumer services.	
ON	2 Terms and Definitions	2.1 Real estate agent, second paragraph	te	In its current form, the list of potential activities which may be exercised by a real estate agent is so wide as to bring no added value to the definition given in the first paragraph. Although the tasks of real estate agents vary from country to country, some core tasks seem to be universal, and thus a distinction is suggested to be made between such core tasks, and those tasks which vary from country to country.	<p>Modify the second paragraph:</p> <p>"This may includes the following activities, for instance:</p> <ul style="list-style-type: none"> • Consulting (e.g. information to clients on market values of properties) • Marketing and advertising of properties • Arranging inspections and viewings of properties • Establishing contacts and enabling communication between the seller and the buyer <p>This may also include the following activities:</p> <ul style="list-style-type: none"> • purchase and sale, 	

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					<ul style="list-style-type: none"> • rental, letting, leasing, • establishment, acquisition and registration of rights in real estate, • surveying for housing and other type of buildings and land, • drawing up contracts” 	
ON	3.1.1. General	First paragraph	te	It should be clarified that information provided electronically will need to fulfil the same requirements as information provided by other means.	Add the following wording: “Information provided by a real estate agent to any party defined in accordance with clauses 2.2, 2.3 and 2.4, whether verbally or in writing, and whether by electronic means or not , shall be ...”	
ON	3.1.1. General	First paragraph	te	The introduction to this Standard refers to the recommendations of CEN/CENELEC Guide 6 and states that these recommendations have been taken into account in the development of this Standard. However, it is difficult to see where this has been done. It paramount that any information provided by a real estate agent is easily understandable and accessible to persons with special needs and that possible hearing / speech / visual impairments, or cognitive impairments are taken into account.	Modify the wording: “Information provided by a real estate agent to any party defined in accordance with clauses 2.2, 2.3 and 2.4, whether verbally or in writing, and whether by electronic means or not, shall be presented in clear and unambiguous wording to facilitate comprehension by all consumers, in particular by persons without experience in this area. The information shall be made accessible, understandable and clear to persons with special needs, following the provisions of CEN/CENELEC Guide 6 ‘Guidelines for standards developers to address the needs of older persons and persons with disabilities’ . If relevant information (as defined in 3.1.2 and 3.1.3) for the transaction is not available, the real estate agent shall disclose this fact”.	
ON	3.1.1. General	Second paragraph	te	This paragraph should not only apply to clients, but also to those persons providing personal information to the real estate agent before becoming a client. Considering	Modify second paragraph as follows and add third paragraph:	

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				<p>that data protection legislation already exists at the national and European level, the real estate agents should be obliged to bring this fact to the persons' attention.</p> <p>In addition, when real estate agents ask for the credit ratings of the (prospective) clients, it should be a requirement for them to provide the client in question a copy of it.</p>	<p>"All parties providing personal information to real estate agents shall be informed that, in accordance with data protection legislation, they have a right to access their own personal data held by the real estate agent and to have their data corrected or deleted, if necessary.</p> <p>The client should be given a copy of their own credit rating, whenever one is obtained by the real estate agent. This information should be given to the client without the latter having to explicitly ask for it."</p>	
ON	3.1.1. General	New	te	In order to increase consumer confidence in the service, the real estate agent should make available or present to the client proof of the real estate agent's affiliation with a professional association, or of any certification the REA has been granted.	<p>Add third paragraph:</p> <p>"The real estate agent shall present any relevant national certification awarded to the real estate agent, as well as an indication of any membership to relevant professional association(s). If the real estate agent is not certified or not member of a relevant professional association, this shall also be clearly indicated."</p>	
ON	3.1.1. General	New	te	The recent Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market sets a list of information requirements in Article 22. These include information which the service provider will need to make available to the service recipients, either automatically or after a request from the consumer/client.	<p>Add a fourth paragraph:</p> <p>"The information requirements set out in Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market shall be taken into account".</p>	
ON	3.1.1. General	New	te	It is important that clients are automatically kept informed of the progress of the transaction(s), without having to ask for this information.	<p>Add fifth paragraph:</p> <p>"The real estate agent shall routinely keep all parties informed of the progress of the transactions. Any requests for information shall be dealt with promptly."</p>	

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ON	3.1.1. General	New	Te	It seems appropriate to provide information to clients regarding the conditions for making, changing or terminating any client-agent agreement.	Add sixth paragraph: “The real estate agent shall provide information to clients regarding the terms for making, changing or terminating any client-agent agreement including its financial implications”.	
ON	3.1.1 General	New	Te	Real estate agents should not be allowed to instruct other agencies to help them buy or sell a property without receiving the client’s approval for this first.	Add seventh paragraph: “The real estate agent shall not instruct other agencies to assist in selling or buying property without first obtaining their client’s express consent for this.”	
ON	3.1.2. Information to the buyer as client	First paragraph	te	Considering the national differences with regard to the information obligations of the real estate agent towards the buyer, it would be prudent to re-word this paragraph so as to take account of such differences. For example, in some countries the real estate agents simply have a duty to inform the buyer of his/her own responsibility to e.g. inspect the property for defects. It is thus recommended that the real estate agent informs the buyer of their general rights and duties as a consumer of the services, and ensures that the buyer receives any necessary information through the appropriate means. The current list of items consists of examples only, i.e. the information provision is optional. However, we also need clear-cut normative requirements. It is also relevant to stress that the real estate agent needs to provide ALL relevant information of importance for the transaction.	Suggest to rephrase the first paragraph: “The real estate agent shall inform the buyer of their responsibilities and rights as a buyer, and shall endeavour to ensure that the buyer is provided in a timely fashion with all relevant information which may influence any decision concerning the transaction, including but not limited to the following, unless not applicable:”	
ON	3.1.2 Information to the buyer as client	listed items	te	The wording is much too vague in some instances. For example, it is insufficient to ask for a “description of the property”. A major nuisance for customers (both business and private) is that the descriptions offered do not match reality and is glossing over the facts. Good pictures are	Change second indent to: - a fair, realistic and non-deceptive description of the property, including the type of property, condition, measurements, location,	

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				<p>often missing.</p> <p>It is insufficient to talk about “financial issues” without requiring the real estate agent to provide a complete picture of all expenses due.</p> <p>Customers want to get information about the condition of the property and its utilities including any environmental or design for all performance.</p> <p>Documents showing that the real estate agent is entitled to receive payments should be attested by a notary.</p> <p>Envisaged changes of planning and development zone status are also important information.</p> <p>The current wording can be understood to exclude</p>	<p>surroundings and access, including expressive high quality pictures showing all characteristic elements of the property,</p> <p>Change third indent to:</p> <p>- a complete overview of all arising costs including prices, taxes, fees, commissions, etc shown separately,</p> <p>Change sixth indent to:</p> <p>- structural characteristics and description of the utilities including their age and condition, health and environmental aspects such as energy performance of building information (energy passport) and barrier free characteristics,</p> <p>Change seventh indent to:</p> <p>- a document attested by a notary showing that that the real estate agent is entitled to receive payments in respect of the transaction on behalf of the party entitled to it,</p> <p>Change eighth indent to:</p> <p>- planning and development zone status and any planned or envisaged changes which might affect the value of the property</p> <p>Change ninth indent to:</p>	

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				defects which the real estate agent has found out about or noticed on his own initiative, i.e. which have not been directly disclosed to him by e.g. the seller. The wording should, instead, cover any defects the real estate agent is aware of, whether discovered by the real estate agent or pointed out to the real estate agent.	-defects of which the real estate agent is aware and the advice that it is the responsibility of the client to discover any other potential defects himself.	
ON	3.1.2 Information to the buyer as client	New	te	<p>Finally, it is important that the customer is alerted in case any of the suggested information provisions are not provided as a result of the limited business activity and/or lack of knowledge on the part of the real estate agent.</p> <p>Finally, the client must be informed about the applicable provisions of legislation and, in particular, consumer protection laws, e.g. with respect to rules for commissions, withdrawal from the contract etc.</p>	<p>Add following paragraphs after the list of items:</p> <p>Where any of the above information is not provided as a result of the limited business activity and/or lack of knowledge on the part of the real estate agent, this shall be indicated to the client in writing.</p> <p>In case the buyer is a private consumer, the real estate agent shall provide information on all applicable legal and other provisions including consumer protection laws covering issues such as commissions (e.g. defined maximum commissions), or any right of withdrawal from contracts, applicable cooling-off periods, or liability regulations. No payments shall be asked from the consumer before expiry of any right to rescind the contract.</p>	
ON	3.1.3. Information to the seller as client	First paragraph	te	<p>Considering the national differences with regard to the information obligations of the real estate agent towards the seller, it would be prudent to re-word this paragraph so as to take account of such differences. For example, in some countries the real estate agents simply have a duty to inform the seller of his/her own responsibilities. The real estate agent should inform the client of their general rights and duties as a consumer of such services, and ensures that the seller receives the necessary information through the appropriate means.</p> <p>The current list of items consists of examples only, i.e. the</p>	<p>Suggest to rephrase the first paragraph:</p> <p>"The real estate agent shall inform the seller of their responsibilities and rights as a seller, and shall endeavour to ensure that the seller is provided in a timely fashion with all relevant information which may influence any decision concerning the transaction, including, but not limited to, the following, unless not applicable:"</p>	

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				information provision is optional. However, we also need clear-cut normative requirements. It is also relevant to stress that the real estate agent needs to provide ALL relevant information of importance for the transaction..		
ON	3.1.3	Second indent	te	It is insufficient to talk about “financial issues” without requiring the real estate agent to provide a complete picture of all expenses due.	Change second indent to: - a complete overview of all arising costs including prices, taxes, fees, commissions, etc shown separately	
ON	3.1.3	New	te	Finally, it is important that the customer is alerted in case any of the suggested information provisions are not provided as a result of the limited business activity and/or lack of knowledge on the part of the real estate agent. Finally, the client must be informed about the applicable provisions of legislation and, in particular, consumer protection laws, e.g. with respect to rules for commissions, withdrawal from the contract etc.	Add following paragraphs after the list of items: Where any of the above information is not provided as a result of the limited business activity and/or lack of knowledge on the part of the real estate agent, this shall be indicated to the client in writing. In case the seller is a private consumer, the real estate agent shall provide information on all applicable legal provisions including consumer protection laws covering issues such as commissions (e.g. legally defined maximum commissions), or any right of withdrawal from contracts. No payments shall be asked from the consumer before expiry of any right to rescind the contract.	
ON	3.2 Client-agent agreement	Second paragraph	te	It should be stated that any change to the contract must be made in writing.	Add after first sentence (“The real estate agent shall prepare...”): “Any changes to the contract shall be made in writing”	
ON	3.2 Client-agent agreement	7 th bullet point	te	Provide for the possibility of changing the contract.	Should read as follows: “- date of signing....termination or change ”	
ON	3.2 Client-agent	11 th bullet	ed	Grammatical correction	Should read as follows:	

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	agreement	point			<ul style="list-style-type: none"> “a reference to applicable law” 	
ON	3.2 Client-agent agreement	note	te	Considering that exclusive agency agreements may be both beneficial to clients, under certain circumstances, and detrimental, in the sense of limiting the choice and freedom of the client, it is recommended to delete this note from the draft standard.	Delete the note	
ON	3.3 Transaction related information	Second paragraph	te	Considering that sellers sometimes ask for personal information on the prospective buyers, such as their family situation, in order to assess to whom they prefer to sell their property, this paragraph should be amended to allow such information to be divulged unless specifically otherwise requested by the buyer. A similar information request may be made by the buyer, regarding some personal information on the seller. Further, the term ‘confidential’ is rather narrow and may exclude information that is purely ‘personal’ (e.g. family status), rather than confidential (e.g. bank account details). Thus, the term ‘personal’ should be preferred.	Suggest to change wording: “The real estate agent shall ensure that personal information that the client has asked to be kept confidential is not released. ”	
ON	3.3 Transaction related information	Fifth paragraph, second sentence	te	Considering that the seller should receive notice of any offers without delay, in order to ensure fair and equal rights to both the seller and buyer, the offering parties should also be notified without delay of any acceptance or rejection of their bid(s) and the real estate agent should not be allowed to ‘sit on the decision of the seller’.	Suggest the following wording: “The offering party shall be notified of acceptance or rejection of the offer without delay ”	
ON	3.4 Conflict of interest		te	The requirement is too vague and should be more detailed. A particular problem regards real estate agents who act as buyers/sellers themselves or act on behalf of firms or relatives with which they have close economic or personal relationships.	Add second paragraph: In particular, the real estate agent shall make clear when he acts as buyer/seller himself or when he acts on behalf of firms or persons with which he has a close economic or personal relationship.	
ON	4 Information to be provided	First paragraph	te	It is somewhat strange that the requirements seem to apply to consumers only as the (small) business client is in a situation which is not much different from the private	Change first sentence to: “In case the buyer is a consumer and he/she is not	

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	to the buyer			<p>consumer. Hence, the requirements should apply to business buyers as well.</p> <p>The current list of items consists of examples only, i.e. the information provision is optional. However, we also need clear-cut normative requirements. It is also relevant to stress that the real estate agent needs to provide ALL relevant information of importance for the transaction.</p>	a client of the real estate agent, the real estate agent shall inform the buyer of their responsibilities and rights as a buyer, and shall endeavour to ensure that the buyer is provided in a timely fashion with all relevant information which may influence any decision concerning the transaction, including, but not limited to, the following, unless not applicable: "	
ON	4 Information to be provided to the buyer	List of items	te	<p>The wording is much too vague in some instances. For example, it is insufficient to ask for a "description of the property". A major nuisance for customers (both business and private) is that the descriptions offered do not match reality and is glossing over the facts. Good pictures are often missing.</p> <p>It is insufficient to talk about "prices and related acquisition costs/taxes" without requiring the real estate agent to provide a complete picture of all expenses due.</p> <p>Customers want to get information about the condition of the property and its utilities, including environmental and design for all performance.</p> <p>Documents showing that the real estate agent is entitled to receive payments should be attested by a notary.</p>	<p>Change first indent to:</p> <ul style="list-style-type: none"> - a fair, realistic and non-deceptive description of the property, including type of property, condition, measurements, location, surroundings and access, including expressive high quality pictures showing all characteristic elements of the property, <p>Change second indent to:</p> <ul style="list-style-type: none"> - a complete overview of all arising costs including prices, taxes, fees, commissions, etc shown separately <p>Change fifth indent to:</p> <ul style="list-style-type: none"> - structural characteristics and description of the utilities including their age, condition, health and environmental aspects, such as energy performance of building information (energy passport) and barrier free characteristics <p>Change sixth indent to:</p> <ul style="list-style-type: none"> - a document attested by a notary showing that 	

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				<p>Envisaged changes of planning and development zone status are also important information.</p> <p>It is revealing that the standard requires real estate agents to disclose known defects to clients but not to buyers. We consider this to go against good and fair business practices and want this information to be included for buyers as well.</p> <p>It is important that the buyer is alerted in case any of the suggested information provisions are not provided as a result of the limited business activity and/or limited knowledge of the real estate agent.</p> <p>Finally, the private customer – the consumer – must be informed about the applicable provisions of legislation and, in particular, consumer protection laws, e.g. with respect to rules for commissions, withdrawal from the possible contract etc.</p>	<p>that the real estate agent is entitled to receive payments in respect of the transaction on behalf of the party entitled to it,</p> <p>Change seventh indent to:</p> <ul style="list-style-type: none"> - planning and development zone status and any planned or envisaged changes which might affect the value of the property <p>Add final indent:</p> <ul style="list-style-type: none"> - defects of which the real estate agent is aware, and the advice that it is the responsibility of the client to discover any other potential defects himself. <p>Add following paragraphs:</p> <p>“Where any of the above information is not provided as a result of the limited business activity and/or lack of knowledge on the part of the real estate agent, this shall be indicated to the client in writing.</p> <p>In case the buyer is a private consumer, the real estate agent shall provide information on all applicable legal provisions including consumer protection laws covering issues such as commissions (e.g. defined maximum commissions), or any right of withdrawal from contracts, or applicable cooling-off periods. No payments shall be asked from the consumer before expiry of any right to rescind the contract.</p>	

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				Often the consumer is pushed to sign a contract even before the financing is ensured. This is a particular problem in countries where the real estate agent also acts as a financial agent and credit intermediary.	The real estate agent shall advise the buyer not to accept any binding contract unless the financing is ensured.”	
ON	5.2 Safeguarding entrusted properties	New	Te	More specific requirements are needed to ensure the safety of, and access to, clients' property. In particular, the client should be well-informed of when and how the viewings of the property take place.	Add second and third paragraphs: “In advance of any viewings of a property, the real estate agent shall obtain the client’s written instructions as to when the viewings may take place, and who should be present at the time of the viewings. Unless expressly otherwise agreed with the client in writing, the real estate agent shall not give the keys to the property to anyone else.”	
ON	5.3. Client’s money	New	te	Many real estate agent ask for deposits, leading to a false sense of security on the part of the consumer. In doing so, real estate agents can also make a profit on the interests. Clear rules should thus govern any circumstances in which such a deposit is necessary.	Add fourth paragraph: “The real estate agent shall, in principle, not accept any pre-contract deposits from the client. However, if a deposit is given to the real estate agent, a written receipt must be given to the client, including clear conditions on when and under what circumstances the deposit is to be refunded and any interest that may need to be paid.”	
ON	5 Service delivery	New	Te	The marketing of a client’s property by the use of ‘for sale’ boards is common practice in many countries, however, such signs should not be out up without the client’s express prior authorisation.	Add new clause 5.4 Use of ‘for sale’ boards: “The real estate agent shall only erect a ‘For sale / For rent’ sign or board with the client’s express prior authorisation. Should the sign	

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					<p>only relate to a part of a property or building which is in multiple occupation/ownership, the sign shall clearly indicate which part it relates to.</p> <p>Once the property has been sold/rented out, the real estate agent has the responsibility to arrange for the sign's removal within a reasonable period of time".</p>	
ON	6.1 Qualifications of real estate agents - General	New	te	It is insufficient to just to define core competencies without including requirements concerning the type, minimum duration and details of the education.	Include requirements for access criteria, a minimum duration of the education (about 200 hours in total) including practical exercises, a minimum time for the courses (e.g. 2 years), a (broad) curriculum and exams (e.g. need for a theses).	
ON	6.1 Qualifications of real estate agents - General	New	te	Already existing qualifications related to real estate should be taken into account.	Allow for reduced training needs for persons who are qualified in a field related to real estate, such as lawyers, architects or economists. The conditions for this are to be determined on a case by case basis, depending on the existing knowledge of the relevant subjects by the applicant.	
ON	6.1 Qualifications of real estate agents - General	New	te	In order to ensure proper implementation of the provisions of this standard and to ensure proper assessment of possible trainees, and regular training of staff members, (a) specific person(s) should be identified among the staff to take responsibility for these tasks.	Add new paragraph: "The real estate agent shall ensure that a specific staff member is responsible for implementing this Standard. One staff member shall also be appointed as responsible for arranging staff training and for regularly assessing any trainee staff members".	
ON	6.3 Continuing professional development		te	The clause lacks a minimum amount of training hours for the real estate agents after they passed their final exams.	Define a minimum for continuing education (e.g. 20 hours per year).	
ON	8 Complaints handling		te	It is somewhat unclear what is meant by "independent dispute resolution systems". If this is to mean 'alternative	Suggest to modify as follows:	

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1	2	(3)	4	5	(6)	(7)
MB ¹	Clause No./ Subclause No./ Annex (e.g. 3.1)	Paragraph/ Figure/Table/ Note (e.g. Table 1)	Type of com- ment ²	Comment (justification for change) by the MB	Proposed change by the MB	Secretariat observations on each comment submitted
				<p>dispute resolution mechanisms (ADR)', then the latter terms should be used for clarity. On the other hand, if independent dispute resolution is thought to cover something other than e.g. negotiation, mediation, or arbitration, then we suggest that a specific reference to alternative dispute resolution mechanisms should be made.</p> <p>In setting complaints handling mechanisms, the real estate agent should use the ISO 10002 and 10003 standards as guidance.</p>	<p>“Real estate agents shall have a written complaints procedure which shall ensure that all complaints are dealt with without delay. Real estate agents shall also provide recourse to alternative dispute resolution mechanisms.</p> <p>Any complaints handling mechanisms should follow the recommendations given in ISO 10002:2004 ‘Customer satisfaction – Guidelines for complaints handling in organisations’ and ISO 10003:2007 ‘Customer satisfaction - Guidelines for dispute resolution external to organisations’.”</p>	
ON	10 Legal requirements	New	te	<p>Given that legal provisions for real estate agents exist in many countries, it seems appropriate to incorporate a general obligation to comply with existing legislation. Otherwise one could be in conformity with the provisions of the standard even when ignoring law.</p>	<p>Add new section:</p> <p>10 Legal requirements</p> <p>“The real estate agent shall comply with all applicable national legislation for real estate agents”.</p>	

1 **MB** = Member body (enter the ISO 3166 two-letter country code, e.g. CN for China; comments from the ISO/CS editing unit are identified by **)

2 **Type of comment:** **ge** = general **te** = technical **ed** = editorial

NOTE Columns 1, 2, 4, 5 are compulsory.