

March 5, 2007

U.S. Securities and Exchange Commission
100 F Street N.E.
Washington DC 20549-0609
Attention: Nancy M. Morris, Secretary

Re: In the Matter of NetCoalition, File No. SR-NYSEArca-2006-21

Dear Chairman Cox and Commissioners:

The Securities Industry and Financial Markets Association ("SIFMA")¹ again would like to express its appreciation for the Securities and Exchange Commission's ("Commission" or "SEC") unanimous decision to grant the NetCoalition petition ("Petition")² to review the Staff's approval of NYSE Arca LLC's ("NYSE Arca") market data fees under delegated authority. We have thoroughly addressed the issues raised by the Staff's order of approval and the petition in our letter dated January 17, 2007, in response to the Commission's request for statements on the Staff's action.³ We are submitting this additional letter, however, to respond to letters subsequently filed by NYSE Arca and the new "Exchange Market Data Coalition."⁴

I. REASON FOR ADDITIONAL COMMENT

The fact that NYSE Arca and the Exchange Market Data Coalition either have ignored or glossed over the points we and other commentators have raised underscores the wisdom of the SEC in granting this review, which we believe is essential to facilitating a thorough examination of the relevant issues, including:

¹ The Securities Industry and Financial Markets Association brings together the shared interests of more than 650 securities firms, banks and asset managers. SIFMA's mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services and create efficiencies for member firms, while preserving and enhancing the public's trust and confidence in the markets and the industry. SIFMA works to represent its members' interests locally and globally. It has offices in New York, Washington, and London and its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

² Petition by NetCoalition re: Securities Exchange Act of 1934 ("Exchange Act") Release No. 54597 (Nov. 14, 2006).

³ Comment Letter from SIFMA re: In the Matter of NetCoalition, File No. SR-NYSEArca-2006-21 (Jan. 17, 2007).

⁴ Comment Letter from NYSE Arca Response to NetCoalition Petition for Commission Review of SR-NYSEArca-2006-21 (Feb. 6, 2007) ("NYSE Arca Response"); Comment Letter from Exchange Market Data Coalition re: NetCoalition Petition for Review; Release No. 34-55011 (Jan. 26, 2007) ("Exchange Market Data Coalition Response").

Appendix A
Fees for Major “Depth-of-Book” and NBBO Market Data Products

	Non-Professional	Professional	Firm (Variable Fees for Access/ Distributor)
NYSEArca ArcaBook ¹	\$10/month/device, \$120/year/device	\$30/month/device, \$360/year/device	\$750/month, \$9,000/year
NYSE OpenBook (excludes Level 1 charges)	\$60/month/device, \$720/year/device	\$60/month/device, \$720/year/device	\$5,000/month, \$60,000/year
Nasdaq TotalView and OpenView (includes Level 2 but excludes level 1 UTP)	\$14/month/device, \$168/year/device	\$70/month/device, \$840/year/device	\$5,000/month, \$60,000/year ²
Amex Depth-of- Book ³	\$10/month/device, \$120/year/device	\$20/month/device, \$240/year/device	\$2,000/month, \$24,000/year
CTA Tape A ⁴	\$1/month/subscriber, \$12/year/subscriber	\$127.25/month/subscriber, \$1527/year/subscriber	\$1,450/month, \$17,400/year
CTA Tape B	\$1/month/subscriber, \$12/year/subscriber	\$30.20/month/subscriber, \$362.40/year/subscriber	(covered by CTA Tape A fee)
Nasdaq Level 1	\$1/month/subscriber, \$12/year/subscriber	\$20/month/subscriber, \$240/year/subscriber	\$3,750/year
OPRA ⁵	\$1/month/subscriber, \$12/year/subscriber	\$20/month/subscriber, \$240/year/subscriber	\$1,000/month, \$12,000/year
Annual Total for Investor to Access All Relevant Data	\$1,176	\$4,529.40	\$186,150

¹ The ArcaBook fee is split - half for access to data on CTA securities and ETFs; and half for Nasdaq-UTP securities. The data in the table assumes a customer wants access to both feeds.

² The Nasdaq firm fee is split, half for access, and half to serve as a distributor.

³ The Amex firm charge is based on direct access; slower indirect access costs 25% less.

⁴ CTA Tape A professional and non-professional fees both decline with volume; firm fee is based on direct access; slower indirect access costs 50% less.

⁵ The OPRA firm charge is based on direct access; slower indirect access costs 40% less. The table does not include single-exchange “depth-of-book” market data products for the options markets (such as CBOE’s \$5/month/user non-professional fee).

Appendix B

National Stock Exchange Comment Letter dated February 27, 2007

PDF attached



Joseph Rizzello
Chief Executive Officer

February 27, 2007

Submitted Via Electronic Mail

Ms. Nancy M. Morris, Secretary
U.S. Securities and Exchange Commission
100 F St. N.E.
Washington, DC 20549-0609
Email: rule-comments@sec.gov

Re: In the Matter of NetCoalition, File No. SR-NYSEArca-2006-21

Dear Ms. Morris,

The National Stock Exchange (“NSX”) appreciates this opportunity to comment on the Commission’s review of the approval by the Division of Market Regulation of a rule change that would establish fees to be charged by NYSEArca, Inc. (“NYSEArca”) for its Arca Book market data product (“NYSE Arca Data”).¹ This comment letter is filed in connection with the Commission’s order² granting the petition by NetCoalition for review of the Division’s approval of the NYSE Arca Data fee proposal. NSX’s view is that this fee approval should not be implemented until the Commission has first conducted a thorough, broad-based review of the securities market data structure and, based on such a review, reconsiders the NYSE Arca Data fee proposal.

NSX requests that the Commission examine closely the fundamental issues concerning both "depth of book" and consolidated real time market data. Recent, dramatic changes in technology and the competitive landscape affecting securities exchanges have transformed the manner that information is currently being produced and accessed by market participants. The Commission should carefully consider the alternatives now available to modernize and optimize the dissemination of securities markets data.

Under the National Market System (“NMS”), consolidated data is essentially a rate-fixed product which is redistributed back to the broker-dealers who are required to supply it. Not only is the markup for the data excessive³, but also the data has already become insufficient by itself

¹ See Securities Exchange Act Release No. 34-54597 (October 12, 2006), (October 12, 2006)

² See Securities Exchange Act Release No. 34-55011 (December 27, 2006), (December 27, 2006)

³ In 2003, consolidated market data revenue totaled \$386 million, with network expenses of only \$38 million. See Exchange Act Release No. 49,325 (February 26, 2004), 69 Fed. Reg. 11126, 11179 (March 6, 2004)

as a tool for investors to make trading decisions. One reason for this is that unfettered access to consolidated quotation data at multiple price points is necessary as liquidity naturally aggregates around multiple penny increments.

The Commission has outlined several key objectives for Regulation NMS, including transparency, fairness, and access. These key policy objectives ultimately call for the automation of all markets wherever possible. We believe NMS will foster a more competitive and efficient secondary market, one which mitigates unfair informational advantages because markets will be both better informed and more competitive. Decimalization and technology advances in order management systems, however, have served to reduce the displayed liquidity at the top of book. As these trends continue, the tangible value to the marketplace of consolidated top of book data will continue to decrease. In the meantime, until the market data fee structure is reformed, broker-dealers will still be forced to purchase market data at a fixed and, we believe, arbitrary price. Market participants who do not purchase the exchanges' depth of book data will suffer the types of informational disadvantages that Regulation NMS seeks to eradicate.

The Exchange Market Data Coalition has stated in its comment letter that "each Exchange certainly considers market data to be a significant product of their core business and an appropriate means to fund operations, including key regulatory activities..." and that "revenue fosters innovation"⁴. NSX disagrees with these statements. In our view, it is competition, or the opportunity for competition, that fosters innovation – not revenue. More importantly, to the extent that market data revenue is used to fund regulatory activities, we submit that it would be more logical and transparent to charge an explicit regulatory fee for these services.

Market forces today clearly indicate that the \$400 million consolidated data revenue pool is too large. NSX estimates that in 2006, roughly \$50 million of the \$400 million market data revenue pool was actually rebated back to broker-dealers/subscribers. This amount would be higher still if not for the limits on rebate amounts imposed under Commission regulation. Furthermore, the securities industry levies market data fees on a per user basis, but rebates back market data fees on a per trade basis, in amounts that are limited, we believe artificially, by SEC rule. This results, at best, in a misappropriation of fees and, at worst, an incentive for adverse gaming behavior.

We believe the Commission should explore all possible approaches to reforming market data consolidation and dissemination with a minimum of market disruption, including the means through which exchanges fund their vitally important regulatory functions. We recommend that all exchanges be required to consolidate and distribute their real time top *and* depth of book data, with the associated costs imposed only on those investors who act on the information. Such a

⁴ Comments of Exchange Market Data Coalition, January 26, 2007

