



**John M. Yetter**  
Vice President and Senior  
Deputy General Counsel  
805 King Farm Boulevard  
Rockville, MD 20850

**P:** [REDACTED]  
**E:** [REDACTED]

October 24, 2019

Ms. Vanessa Countryman  
Secretary  
Securities and Exchange Commission  
100 F. Street NE.  
Washington, DC 20549

Re: SR-NYSE-2019-46

Dear Ms. Countryman:

The Nasdaq Stock Market LLC (“Nasdaq”) submits this comment letter regarding the above-captioned rule change filed by the New York Stock Exchange LLC (“NYSE”) to amend its pricing of certain co-location services NYSE offers for connectivity to NMS feeds for which NYSE’s wholly-owned subsidiary, the Securities Industry Automation Corporation (“SIAC”), is the securities information processor (“SIP”). Nasdaq is concerned that NYSE’s proposal is potentially anti-competitive in a manner not addressed fully in NYSE’s proposal. Nasdaq believes the Commission should require NYSE to expand its analysis to address these potential anti-competitive effects, and allow time for additional comments and discussion on the proposal.

Today, NYSE offers market participants connections to the Consolidated Tape System and Consolidated Quote System data streams, as well as Options Price Reporting Authority (“OPRA”) (collectively “NMS Feeds”) as the exclusive processor (collectively “NMS Network Connection”). NYSE’s proposal would permit market participants, who separately pay NYSE to connect to NYSE’s trading venue, to receive up to eight free connections to the faster NMS Network; on the other hand, NYSE will charge other market participants who elect to receive only the faster NMS Network Connections through the NMS Network without paying to connect to NYSE’s trading venue. NYSE, as exclusive processor, is the only distributor of NMS Feeds, and is therefore the only distributor able to offer market participants the ability to receive both NYSE proprietary data and NMS Feeds at a discount. No other exchange or third-party provider is able to offer discounts coupled with NMS Network Connectivity other than NYSE.

As such, NYSE’s proposal raises concerns regarding competition that Nasdaq believes are not addressed in its current proposal. Specifically, the commingling of pricing for NMS Network Connectivity with NYSE connectivity to its trading venue, including access to proprietary data feeds, on a bundled basis creates a burden on inter-market competition. NYSE’s position as exclusive processor coupled with the proposed bundled pricing has the effect of burdening competition by creating a cost structure that serves as an obstacle to competition. The bundled pricing strategy that NYSE proposes hinders potential providers from competing to serve as network processor. Any change to the current processor would increase costs to market

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participants that would purchase a subset of the NMS Network Connections from the new provider and continue to pay the bundled price to NYSE to connect and transact business on NYSE. Even if a competitor for the role of processor could offer innovative solutions and superior technology, the proposed bundled cost structure would hinder that provider from competing. Further, even if a new processor were selected for one of the three NMS Feeds, bundled pricing could continue to be offered by NYSE for the other two NMS Network Connections, which also would increase the cost of subscribing to all three NMS Feeds for some market participants.

NYSE's failure to offer market participants the opportunity to acquire any of the NMS Network Connections individually also hinders competition. NYSE's pricing only permits market participants to pay for the NMS Network Connections collectively. Under the proposal, a market participant must purchase connectivity to the entire bundle, even if the market participant only desired one data stream. Market participants would be denied the opportunity to elect for potential lower costs by subscribing to only one or two of the NMS Feeds.

Finally, as exclusive network processor, NYSE offers market participants subscribing to NYSE's trading venue free pricing on NMS Network Connections to advantage connection to its proprietary trading environment. There is no separation between NYSE as SIP and NYSE as a self-regulatory organization as far as the pricing for NMS Network Connections and NYSE connections to proprietary data feeds. The proposal burdens inter-market competition because other self-regulatory organizations are unable to couple their pricing for connectivity to their trading venues with NMS Feeds similar to NYSE.

In a competitive environment, a provider offering an innovative solution or a more cost-effective product should be able to use those advantages to attract customers. That is the very essence of competition, and it is the force that drives innovation, efficiency, and competitive pricing. But here, NYSE's proposed bundled cost structure threatens to prevent competitors from attracting customers *even if* they have developed superior solutions—instead, customers will be locked in by NYSE's bundles, innovation will be thwarted, and customers will be harmed in the long run. In short, competition will be stifled.

Nasdaq believes that offering bundling discounts can benefit consumers and can be pro-competitive, provided that there is an opportunity to compete. NYSE's position as the exclusive plan processor for the NMS Feeds renders its effort to bundle pricing for access to the NMS Feeds with pricing for other, non-exclusive products potentially anti-competitive. Nasdaq believes the Commission should require that NYSE address this concern and consider allowing additional time to consider the burden placed on inter-market competition.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Yetter", with a horizontal line extending to the right.

John M. Yetter