Janet Angstadt
Acting General Counsel

NYSE Arca, Inc.
Legal
100 S. Wacker Drive | Suite 1800
Chicago, Illinois 60606

tel: 312.960.1696
fax: 312.960.1369
janet@nyse.com

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Via email to rule-comments@sec.gov

Ms. Nancy J. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-9303

Re: NYSEArca Data Filing
File No. SR-NYSEArca-2006-21

Dear Ms. Morris:

NYSE Arca, Inc. (the "Exchange") welcomes the opportunity to respond to certain of the comments that NetCoalition[1] and the Securities Industry Association ("SIA")[2] have submitted to the Commission in respect of the Exchange's captioned market data filing. The filing proposes to establish market data fees for (1) ArcaBook℠ and (2) real-time information relating to transactions and limit orders in debt securities that are traded through the Exchange's facilities.

On July 25, 2006, NYSE Arca responded[3] to two earlier comment letters on File No. SR-NYSEArca-2006-21, one from SIA[4] and the other from Steven C. Spencer[5]. Because the NetCoalition letter and the August 18 SIA letter largely rehash comments that SIA made in its June 30 letter, this letter primarily expands upon the Exchange's July Response.

A. Fairness of Fees. In the July Response, the Exchange noted that its decision to commence to charge for the Arca Book service emanated from the Commission's decision to grant to each national securities exchange the right to distribute "core" market data outside of the national market system plans for fair and reasonable

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1 See letter to Christopher Cox, Chairman, Securities and Exchange Commission from NetCoalition, dated August 9, 2006.

2 See letter to Ms. Morris from Gregory Babyak, Chairman, Market Data Subcommittee of the SIA Technology and Regulation Committee, and Christopher Gilkerson, Chairman, SIA Technology & Regulation Committee, dated August 18, 2006.

3 See letter to Ms. Morris from Janet Angstadt, Acting General Counsel, NYSE Arca, Inc. dated July 25, 2006 (the "July Response").

4 See letter to Ms. Morris from Mr. Babyak and Mr. Gilkerson dated June 30, 2006.

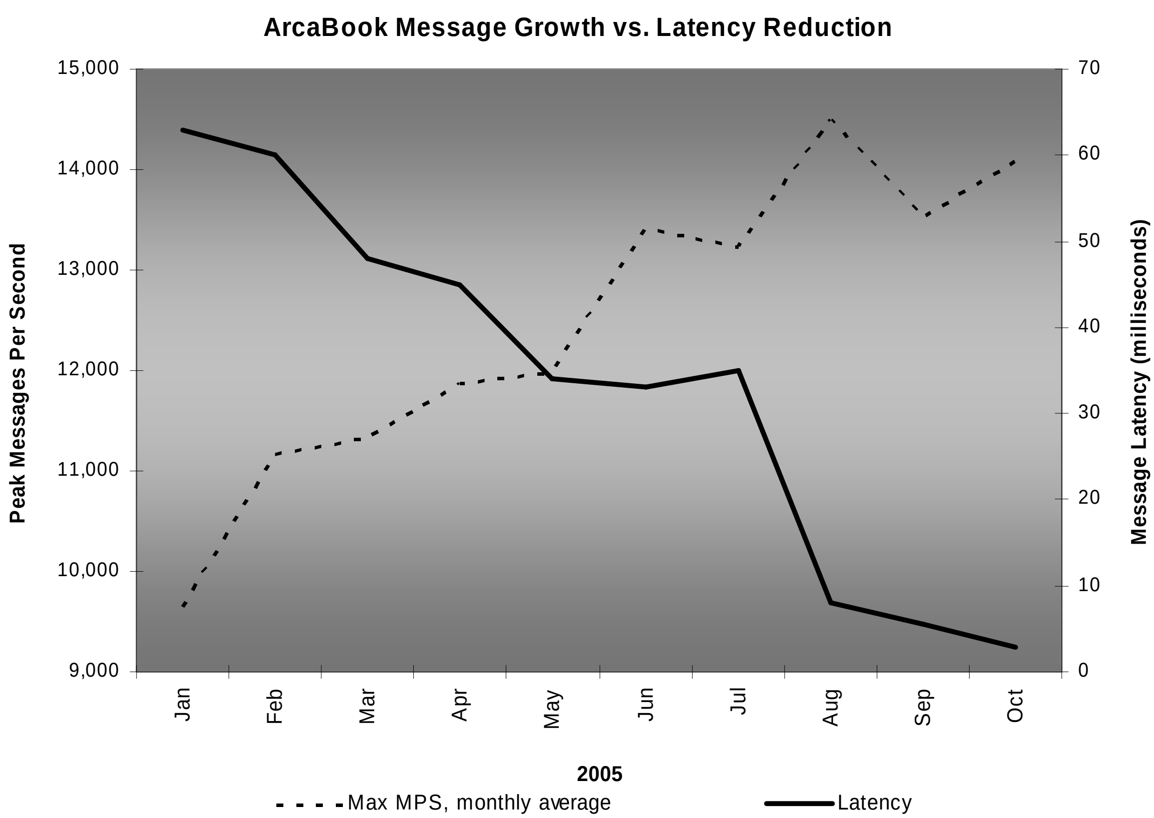
5 See letter from Steven C. Spencer, Esquire, dated June 18, 2006.

fees[6] and from the Exchange's desire to participate in a revenue stream that is growing increasingly significant for its primary competitors. The July Response noted that the Exchange's proposed fees are far lower than those that the Commission has approved for OpenBook and TotalView, two similar products offered by the New York Stock Exchange LLC ("NYSE") and the Nasdaq Stock Market LLC ("Nasdaq"), respectively.

In addition, each exchange considers different business priorities when setting the level of fees for each market data product. For ArcaBook, the Exchange examined the quantity and quality of the market data relative to other similar products and determined to comparatively under-price the product so as to minimize the impact on market data budgets as ArcaBook transitions to a fee-liable product.

1. Quantity.

The Exchange has devoted considerable investments in time, effort and resources to making Arca Book one of the best depth-of-book products on the market. In addition to providing all orders and quotes in its limit order book through the ArcaBook product, the Exchange has invested in reducing the latency associated with the distribution of ArcaBook data. The following chart demonstrates that during the first ten months of 2005 the number of messages processed by the Exchange greatly increased from approximately 9,800 MPS to 14,100 MPS.



6 See Section V(B)(3)(a) of Regulation NMS (Release Nos. 34-50870 and 34-51808; File No. S7-10-04).

Intuitively, one would think that an increase in latency would accompany such a precipitous increase in message traffic. Instead, the Exchange devoted resources to finding innovative solutions that permitted it to expand capacity at the same time as it improved processing efficiency. This effort resulted in greatly *reduced* message latency, despite the vast *increase* in message processing. In determining to invest the resources necessary to enhance ArcaBook technology, the Exchange contemplated that it would seek to charge for the receipt and use of ArcaBook data

2. Quality. The table below compares the percentage of time that NYSE Arca limit order book quotes are at the national best bid or offer ("NBBO") with that of Nasdaq and NYSE, for comparable stocks.[7] Percentage of time at the inside is a commonly used measure for estimating the contribution to price-discovery that an exchange makes.[8] As shown, NYSE Arca is at the inside price virtually as often as Nasdaq, yet the proposed fee for ArcaBook is merely one-fifth of the TotalView fee. NYSE Arca is at the inside price 85 percent as often as NYSE, yet the proposed fee for ArcaBook is only about one quarter of the OpenBook fee.[9]

OTC Securities

	Time at Inside	Fee
NYSE Arca	79%	$15
Nasdaq	82%	$70
NYSE Arca as Percentage of Nasdaq	96%	21%

Tape A and B Securities and ETFs

	Time at Inside	Fee
NYSE Arca	64%	$15
NYSE	75%	$60
NYSE Arca as Percentage of NYSE	85%	25%

B. Burden on Competition. In the July Response, the Exchange asserted that the proposed ArcaBook fees will serve to foster competition because it will allow the Exchange to diversify its revenue stream in a manner similar to its primary competitors and because the proposed charges for ArcaBook data would make any comparable products that regional exchanges may determine to introduce more attractive to investors.

That is, the Exchange's decision to commence to charge for ArcaBook is not a burden on competition; rather, it exemplifies competitive processes in their purest form. As discussed below, the Exchange is making a business decision, driven by competitive

7 Time-at-the-inside measures are share volume-weighted averages of the underlying securities.

8 Indeed, the Commission has moved to include a time-at-the-inside measure as part of the calculation for the allocation of market data revenue under Regulation NMS.

9 We acknowledge that the comparison with OpenBook discounts the quality value of OpenBook since NYSE does not trade all of the underlying securities included in the analysis (e.g., NYSE does not trade most Amex-listed securities or over-the-counter ETFs). If we consider only Tape A securities, ArcaBook as a percentage of NYSE time at the inside would be 67%, which is still a larger ratio than the fee ratio.

market forces—the Exchange's business model and the business models of its exchange competitors.

In part, the Exchange based its decision to commence to charge for Arca Book as a competitive response to Nasdaq's removal of the NQDS service, and its attendant revenues, from the OTC/UTP Plan. The Exchange has suffered a loss of revenues from that removal. At least initially, it is unlikely that ArcaBook revenue will fully replace the Exchange's lost NQDS revenue. Over recent years, the Exchange's share of NQDS revenue has, in part, acted as a surrogate for revenue that the Exchange might have collected by charging for the receipt and use of its proprietary market data.

In part, the Exchange based its decision to commence to charge for ArcaBook on Congress's call for a "level playing field" for inter-exchange competition[10] and the Commission's clear confirmation of the Exchange's right to make that decision in its adoption of Regulation NMS. The combination of Congress's design for a national market system that is to be characterized by equal regulation of securities exchanges and the Commission's approval of the counterpart charges of the Exchange's two primary competitors warrants Commission approval of the proposed ArcaBook charges.

In part, the Exchange based its decision to commence to charge for Arca Book on its view that market data is a core product of any exchange and that market data charges are a particularly equitable means for funding a market's investment in technology and its operations. In contrast with transaction, membership, listing, regulatory and other SRO charges, market data charges cause all consumers of a securities market's services, including investors and market data vendors, to contribute.

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In short, the proposed ArcaBook charges meet the statutory standards for market data fees while fostering competition among exchanges in the marketplace for depth-of-book information.

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10 In its 1975 legislation establishing the National Market System, Congress found that "it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure . . . fair competition among exchange markets." Congress codified that finding in Section 11A(a)(1)(C) of the Securities Exchange Act of 1934, as amended.

We thank the Commission for allowing us to respond.

Sincerely yours,

Janet Angstadt
Acting General Counsel
NYSE Arca, Inc.

cc: Chairman Christopher Cox
Commissioner Paul S. Atkins
Commissioner Roel C. Campos
Commissioner Annette L. Nazareth
Commissioner Kathleen L. Casey
Robert L. D. Colby
David S. Shillman
Kelly M. Riley