

RICHARD HUGH BAKER
5TH DISTRICT, LOUISIANA

COMMITTEE ON
FINANCIAL SERVICES

CHAIRMAN
SUBCOMMITTEE ON
CAPITAL MARKETS, INSURANCE AND
GOVERNMENT SPONSORED ENTERPRISES

SUBCOMMITTEE ON
FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT

SUBCOMMITTEE ON
HOUSING AND
COMMUNITY OPPORTUNITY



497

COMMITTEE ON
TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON HIGHWAYS
TRANSIT AND PIPELINES

SUBCOMMITTEE ON AVIATION

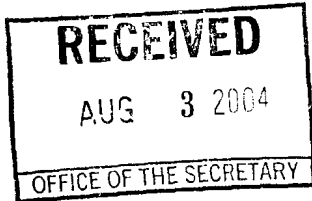
SUBCOMMITTEE ON
WATER RESOURCES AND ENVIRONMENT

COMMITTEE ON

VETERANS AFFAIRS

SUBCOMMITTEE ON HEALTH

Congress of the United States
House of Representatives
Washington, D.C. 20515-1806



July 23, 2004

57-10-04

ES 108391
RECEIVED

The Honorable William H. Donaldson
Chairman
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549

JUL 27 2004

Office of Legislative Affairs

Dear Chairman Donaldson:

In proposing Regulation NMS, the Securities and Exchange Commission stated that its goal was "to enhance and modernize the regulatory structure of the U.S. equity markets." With that in mind, I believe the SEC must focus on equal access to our markets for investors on Main Street as well as for professionals on Wall Street. To achieve that important goal, average investors must have equal access to quality stock price and quotation information.

I was pleased to see that you held a hearing on the different aspects of the Regulation NMS proposal. At the hearing, Robert Greifeld, chief executive of the Nasdaq Stock Market, made a startling acknowledgment with respect to the fees that Nasdaq charges to access stock price and quotation information:

"Currently the cost for professional investors is around \$20. That cost... was established by Nasdaq over 20 years ago... There was no great wisdom in that number, and we look at that number today, that number is too high... The number should probably be somewhere around five to seven dollars. And that's after some thoughtful analysis on our side, and trying to [employ] a rough cost-plus basis to the analysis."

"And that monopoly price has not been thought of for a very long time. NASDAQ itself set that price twenty years ago. So we have a monopoly price that was set almost twenty years ago without any active review of how that relates. And any time you're dealing with a monopoly price, then the participants have the right to understand how that price is derived."

This admission that the exchanges over time have overcharged investors by hundreds of millions of dollars is truly remarkable on several levels. The SEC has comprehensive oversight responsibility over these market data plans under Section

341 CANNON HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515-1806
(202) 225-3901
(202) 225-7313 (FAX)

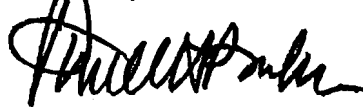
5555 HILTON AVENUE
SUITE 100
BATON ROUGE, LA 70808
(225) 929-7711
(225) 929-7688 (FAX)
1-800-897-1253 (TOLL FREE)

11A of the Securities Exchange Act of 1934. Congress granted the SEC a wide-ranging set of tools—including approval of the plans and inspection and examination authority—so that the prices involved are reasonable and the revenue that is generated is used to further the public interest. Given the testimony at your hearing, important oversight issues arise that require further investigation. Please provide me with answers to the following by September 10, 2004:

- Describe the criteria used by the SEC to establish the reasonableness of the price set by the plans for market data and the appropriateness of how the corresponding revenue is used.
- The New York Stock Exchange claims it spends \$488 million annually to create and disseminate market data on its exchange. Describe the SEC's review of NYSE's, and other market's, production costs for market data.
- How have the plans established that the prices set are reasonable and the uses of the market data revenues appropriate? Please provide to me copies of how that was documented over the last three years.
- Detail the inspection and examination process that the SEC has used to ensure investors have not been overcharged for market information. Please provide me with all information surrounding the last three years worth of exams and inspections.
- To fulfill its statutory obligations the SEC must have concluded that prices investors have paid are reasonably related to the costs of producing the data. Please provide the rationale, calculations and all relevant documentation in support of those findings.

Mr. Greifeld's comments and the revelations of excessive executive pay and frontrunning at the NYSE have raised serious questions. I believe we must work together to quickly establish some basic facts relating to how market data is priced and how the associated revenues are used. My overriding concern is that investors will lose confidence in our equity markets if they believe that they are rigged to enrich a handful of insiders. Thank you for your consideration of this important investor protection issue.

Sincerely,



RICHARD H. BAKER
Chairman
Subcommittee on Capital Markets,
Insurance and Government Sponsored
Enterprises

cc: The Honorable Paul S. Atkins
The Honorable Roel C. Campos
The Honorable Cynthia A. Glassman
The Honorable Harvey J. Goldschmid

FACSIMILE TRANSMITTAL SHEET

TO:
The Honorable William H. Donaldson,
Chairman

FROM:

OP:
Securities and Exchange Commission

DATE:
7/27/2004

FAX NUMBER:
202.942.9650

TOTAL NO. OF PAGES INCLUDING COVER:
3

RE:
Letter regarding market data

- URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE
-