July 22, 2005

VIA ELECTRONIC MAIL

Mr. Jonathan G. Katz
Secretary
Securities and Exchange Commission
100 F Street N.E.
Washington, DC 20549

Re: File No. SR-NYSE-2005-32

Dear Mr. Katz,

Ameritrade, Inc. (Ameritrade) appreciates the opportunity to comment on the New York Stock Exchange, Inc.'s ("NYSE") proposal relating to the NYSE OpenBook Exhibit C. In September, 2004, Ameritrade commented on the NYSE's fee proposal on OpenBook, noting that the fee structure is far too expensive for retail investors and that the restrictions on how brokers can use the data are onerous and contrary to the public interest. Those objections have not been remedied.

The NYSE fees appear on their face to be unreasonable and without justification. The NYSE does not provide any basis for the $5000 per month/$60 per terminal charge. Unlike the listed market, retail investors have been able to view the depth of the market in Nasdaq securities for years. Given that Nasdaq offers Level II quotes for $9 per month, the NYSE's proposed charge of $60 per terminal is unreasonably priced and is unaffordable for the retail investor.

The NYSE claims that this and other fees it charges for its market data reflect an equitable allocation of the overall costs of using its facilities. Nowhere in the NYSE's filings, however, whether for OpenBook or any of its other data services, has the NYSE provided data on its costs or on the formulae it uses to determine the equitable allocation of those costs. We respectfully submit that, without that information, the public lacks the ability to provide meaningful comments and the Commission does not have a legally sufficient foundation on which to approve these charges.

While retreating from its express prohibition on commingling of OpenBook data with data from other market centers, the NYSE seeks to impose requirements that will have the same deleterious impact. The NYSE proposal mandates that vendors provide a special "attribution" for all NYSE OpenBook data. Each element or line of NYSE OpenBook data would have to include the displayed identifier "NYSE". This compulsory identifier would consume finite screen space, thus reducing the amount of trading depth vendors could display. Ameritrade believes this discrimination is clearly not in the public interest and is in violation of the requirements of the Securities Exchange Act of 1934, which provides that such proposals not unnecessarily discriminate among market participants.

The OpenBook proposal continues to raise critical market structure issues. By providing a service that is priced so as to be available only to institutional or professional traders, the NYSE would create a bifurcated market in which retail investors are clearly disadvantaged. By restricting the ability of vendors to provide a consolidated data stream for listed securities, the NYSE contributes to fragmentation and reduced transparency in the listed market.

The SEC should not allow these restrictions to take effect. We suggest that the SEC either permit a full 90 day comment period on this important issue or consider this issue in the context of the broader array of market data/market access issues that the Commission will be addressing in the months ahead.

Ameritrade thanks the Commission for considering its comments. Please contact me at 201-761-5570 if you would like to discuss this matter further.

Sincerely,

Phylis M. Esposito

Phylis M. Esposito
Executive Vice President, Chief Strategy Officer