

March 27, 2007

Nancy M. Morris, Secretary
Securities and Exchange Commission
Station Place
100 F Street, NE
Washington, DC 20549-1090.

Re: File Number SR-NYSE-2007-04

Dear Ms. Morris:

I am writing on behalf of eSignal, a division of Interactive Data Corporation, which specializes in the delivery of real-time market information and the development of advanced trading workstations. I am commenting on the proposal by New York Stock Exchange LLC (“NYSE” or “the Exchange”) to create the “NYSE Real-Time Trade Prices” data feed pilot program (the “data feed”). This data feed will contain the last sale price for all securities traded on NYSE. While we agree that it is important and in the public’s best interest to open up access to real-time prices from the Exchange, we are concerned that the proposal fails to meet the Exchange’s obligations to provide such data on “fair and reasonable” terms that are “not unreasonably discriminatory.”¹

The Exchange has proposed a flat-rate pricing model for all data feed buyers. For the reasons set forth below, we believe the high level of proposed prices unreasonably discriminates against smaller distributors and does not provide fair and reasonable terms that reflect the Exchange’s actual costs of providing the data. We believe that the Exchange should adopt prices which reflect its cost to create the data feeds and provide it to users.

The Proposal Favors Large Firms

The proposed flat-rate pricing model provides an insurmountable advantage to larger web distributors of data. Thousands of financial websites compete for the attention of investors, and many of the websites are seeking to generate advertising revenue through increased page views. The most prominent of these financial websites are well-known web portals like Yahoo! and Microsoft’s MSN, which boast millions of users each month. These large financial websites will consistently distribute an enormous volume of quotations under the flat-rate pricing model, minimizing their cost per quote and putting smaller distributors at a cost disadvantage.

If other exchanges follow the lead set by this proposal of charging a flat rate of \$100,000 per month, websites of all sizes could face real-time quotations for multiple exchanges

¹ Securities Exchange Act § 11A(c)(1)(C) and (D).

that cost millions of dollars per year, giving the competitive advantage to the larger web portals who can amortize those fixed costs over a larger user base. Smaller potential competitors will be discouraged from providing real-time last-trade prices, harming the market for last-trade prices.

We suggest that the price for the data feeds be set high enough for the Exchange to recoup its costs for providing the data feed, but low enough to permit web sites of all sizes to purchase it economically. The Exchange has not provided information that would allow us to determine its costs to provide the data feed, but, based on our firm's experience of distributing real-time data to end users, we estimate that the Exchange's cost would not be more than a few thousand dollars per month. Reducing the price of the data feed cost to under \$5,000 per month would allow the Exchange to recoup its costs and allow firms of all sizes to compete on fair terms. Vigorous competition between large and small firms distributing real-time last trade prices will improve the level of service for investors seeking the information.

Unscrupulous Firms May Exploit the Haphazard Distribution System

Flat-rate pricing under the proposal guarantees that many websites will offer unlimited quotes for free to anonymous users. The readily-available quotes from the large web portals will undoubtedly present an opportunity for some unscrupulous smaller competitors to obtain unlimited free real-time quotes and pass them on to their readers. We expect some web providers to take advantage by using the free, anonymous quotations from web portals and retransmitting the data to unsuspecting web viewers. The unscrupulous websites will effectively turn Yahoo! and its competitors into the "Napster" of real-time quotes, *i.e.*, a never-ending source of free content to be exploited without regard to the intellectual property rights of the owner.

The large web portals providing the data will have zero marginal costs for providing the additional quotes. Additionally, each time a website requests a quote from the web portal, the web portal will generate an additional page view. These additional page views will help to drive advertising revenue for the web portal. As a result, the large web portals are unlikely to actively discourage unscrupulous sites from pilfering the real-time data this way.

As a technical matter, acquiring and reformatting quotes from websites is simple, and as a result, many outside software vendors provide proprietary software that relies on data from Yahoo! and similar web portals. Ironically, hackers can easily find technical information to steal web portals' data using the web portals' own search engines.

Piracy of real-time data by unscrupulous firms is more than a theoretical possibility. Many data piracy firms are actively redistributing misappropriated data from stock exchanges around the world. These firms often operate offshore where protections of

intellectual property rights are lower, where access to legal representation is limited, and where the exchanges' enforcement efforts have thus far been ineffective.²

Ultimately, the Exchange will bear the cost of unscrupulous websites who simply redistribute quotes from larger sites, and the Exchange's capped pricing policy means that it will be unable to recoup its costs from the web portals.

The Proposed Data Feed Pricing is Unfair to Brokers and Market Data Vendors

NYSE brokers and market data vendors who provide real-time data to customers pay for the services on a per-user basis. The mandatory per-user pricing costs larger brokers and market data vendors millions of dollars annually in real-time data fees to the Exchange. In contrast, the Exchange proposes to allow web portals access to substantially the same real-time data for an unlimited number of users at a capped fee that is a fraction of what brokers and market data vendors pay to service many fewer users. In exchange for their greater per-user fees, the NYSE brokers and market data vendors receive certain information, including the bid and ask quotations, that are not included in the proposed data feed. However, this small disparity in the data provided by the two services does not justify the much larger disparity in prices. We believe that the Exchange should consider pricing all of its data services according to its cost to create and provide the data to users. This would mean substantially lowering the price of other real-time data feeds offered by the Exchange to broker-dealers and market data vendors.

For the reasons discussed above, we believe that the Exchange should reconsider the proposed pricing policies for the data feed. We thank you for considering all sides of this issue.

Sincerely,

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Chuck Thompson, President
eSignal, a division of Interactive Data Corporation

² See, e.g., Chi-Chi Zhang & Max Bowie, *Data Piracy Remains Asia Concern*, Inside Market Data, Jan. 8, 2007, at 1.