

Introduction

Data Pricing and Dissemination in a Competitive Securities Market

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The Securities and Exchange Commission (SEC) began to regulate the sale of market data after the 1975 amendments to the Securities Exchange Act of 1934 mandated the creation of the National Market System. The Commission's regulations require each self-regulatory organization—i.e. exchanges and NASDAQ—to establish procedures for the collection and dissemination of quotation and last sale data. The data must then be transmitted to a consortium composed of all other markets trading the same securities and ultimately consolidated into a single stream. The consortium then distributes this data stream to the public through market data services, or vendors, such as Reuters and Bloomberg.

In addition to the requirement for consolidation, the Commission's Vendor Display Rule requires vendors and broker-dealers to disseminate the consolidated data from all markets, not just one of the markets that contributed data. Thus, for example, Reuters is precluded from disseminating top of book information for the NYSE alone even if the customer expressly requests only NYSE data.

The revenues that result from market data sales are not small change. According to SEC statistics, the various consortiums take in more than \$400 million in annual data revenues, and these are then distributed among the various exchanges according to a formula based on their activity.

Because of market structure and competitive conditions at the time, the Commission's restrictions may have made sense when they were initially adopted. The NYSE was then the dominant market for most major securities, and the SEC may have been concerned that a rule was necessary to assure that the NYSE disseminated its data on a non-discriminatory basis and at a reasonable cost. The consolidation requirement could have been the result of the Commission's concern that investors might receive incomplete or misleading data, or that vendors might refuse to purchase data from new or smaller marketplaces, effectively blocking their entry into the national market system that Congress had conceived in the 1975 amendments.

The Commission's requirements, however, bestowed monopoly power on the consortiums, since they had now become the sole source of market data. As a result, each consortium now sets the price it will charge for the data it collects. There is no way to know if a consortium's price reflects the true market value of the data or is a monopoly, profit-maximizing price. While, in theory, the SEC is required to ensure that market data fees are "fair and reasonable" and "not unreasonably discriminatory," in practice the SEC

has few criteria with which to make such a judgment, and has been very reluctant to act as a rate-maker. Broker-dealers complain that the price for market data is too high, and if they are correct all investors are paying excessively high fees for their transactions as market data costs are passed through to the ultimate customers.

The nature of the securities market has now substantially changed. In place of exchanges structured as mutual institutions—almost like clubs—we now have or are headed towards exchanges and trading venues that are private, profit-making corporations, competing with one another for the trading interest of investors.

These changes in market structure cast doubt on whether it is still necessary to create a consolidated stream of data, to prohibit the dissemination of data other than as consolidated, and to permit a consortium of sellers to set a monopoly price for all buyers. Many markets now compete in the trading of the same stocks, and thus have strong incentives to disseminate quote and transaction data to investors at a reasonable cost. In other words, we have the potential for a competitive market in market data.

Vendors, if permitted to disseminate data in packages that their customers want, will have incentives to consolidate, but might also offer data packages customized for specific customers. Consolidated data would probably fetch a higher price than data from only a single market, but economies of scale or other market factors—such as the nature of broker-dealer demand—might dictate the dominance of other packages. Nevertheless, competing with one another, vendors would charge a market-determined price for the data in whatever form they determine is most desirable for buyers.

The ultimate effects of the changes that have recently occurred in the securities market—as in all cases where competition is introduced to a market previously controlled by regulation—cannot be fully anticipated. All we know from experience is that competition drives down costs and promotes innovation. It will also take time to break down the regulatory restrictions that now control the sale of market data. But this conference should provide all of us with a sense of where the major parties to the future debate over market data sales will be starting from.