



EXCHANGE

Subcommittee on Capital Markets

Richard H. Baker, Chairman
Securities, Insurance, Government-Sponsored Enterprises

The News from U.S. Rep. Richard H. Baker
Sixth District, Louisiana

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Opening Statement

The Honorable Richard H. Baker, Chairman
House Financial Services Committee Subcommittee on
Capital Markets, Insurance and Government Sponsored Enterprises
Hearing, July 26, 2001

“Market Data II: Implications to Investors and Market Transparency of Granting
Ownership Rights Over Stock Quotes”

Today, Congress faces the challenge of reviewing the National Market System to determine how securities laws can be amended not only to reflect today’s technology, but also to be flexible enough to adapt to tomorrow’s innovations. This is our second hearing on market data – the stock price information that is the very lifeblood in the operation of our capital markets.

In a sense we are beginning to weigh in on complex philosophical questions, but ones with very simple implications. What is the metaphysical status of market data, where does it reside and who owns it, and how can the system be improved so that all investors have equal access to the speediest and least costly information available about bids and offers for securities to facilitate their investment decisions?

The 1975 amendments to the Securities and Exchange Act of 1934 reflected the need for a system that would provide consolidated quotes so that investors could more easily match the lowest offers with the highest bids. While the plans established as a result of these amendments have provided a valuable function and have contributed to the growth of the U.S. equities market, they do not operate in a truly competitive environment.

Moreover, the technological advances of recent decades and the explosion of the use and capabilities of the Internet were not envisioned by the 1975 amendments to the ‘34 Act and the regulations that followed. Not surprisingly, the change in the law that was intended to be a proactive technology policy in the end has created obstacles to innovation.

In March we focused on how market data is collected, consolidated and distributed. We also examined whether the fees collected by the exchanges and NASDAQ (the Plans) from users of market data, i.e. investors, are being used solely to fund the government-mandated consolidator function of the exchanges and NASDAQ, or whether these fees are subsidizing other activities.

Today we discuss the question of whether there should be legislation to explicitly establish a proprietary right over market databases or to give special protection to the operators of the databases through new private causes of action.

The Plans claim that they already have a property right in the databases they operate because they build and maintain the consolidation system and add value to the information put into the systems as a result of these functions.

Others, ECNs and online trading systems particularly, argue that the quotes from their customers are what give these databases their value. Not only are these market participants forced by law to provide these quotes to the Plans for free, but they also must purchase the consolidated data back from the Plans. These same market participants claim that opening the market data systems to a competitive environment would allow them to provide investors with better quality and depth of information and lower cost.

In a time when we are reconsidering the entire National Market System, we are faced with the question of whether Congress should act to give further legal protections to the exchanges and NASDAQ over market data. Today we will examine whether there is actually a need for any such legislation and the consequences that it might have on the costs and dissemination of market data to investors and on the ability of other participants to innovate.

More importantly, we will ask whether legislation on this limited issue is appropriate when there is such a broad array of concerns with the underlying National Market System that need to be addressed.

In the end, our attention should be focused on enhancing competition in the dissemination of market data so that all investors, individual and institutional alike, have access to the broadest, deepest and least expensive market information available in real-time.

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