

CONSOLIDATED TAPE

January 2, 1974

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THE New York Stock
Exchange

Board
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Summary Memorandum

CONSOLIDATED TAPE

The Issue

To determine the Exchange's position with respect to the SEC staff's most recent recommendations to the Commission on the consolidated tape plan.

Background

The Board will recall that the Exchange, on March 2, 1973, filed with the SEC a joint plan for a consolidated tape, signed also by the American, Midwest, Pacific and PBW Stock Exchanges and the NASD.

On June 13, the Exchange received the Commission's comments on the joint plan, identifying specific areas of agreement and disagreement. The Board reviewed a detailed Exchange staff analysis of those comments in July and authorized the staff to reply, setting forth the Exchange's position on 12 areas covered in the SEC's comments. The Exchange's reply was sent to the Commission on August 10. Subsequently, on September 20, the Exchange sent the Commission a detailed supplementary discussion of "Equal or Uniform Regulation and a Consolidated Tape System for Listed Securities."

In December, the SEC staff -- in a memorandum to the Commission and in a meeting on December 28 -- in effect responded to the Exchange's August 10 comments,

but did not address the question of equal regulation. The SEC staff has furnished the Exchange with an informal summary of that memorandum.

Discussion

The current SEC staff position suggests that, apart from questions of the content and timing of equal regulation, only two -- and possibly three -- substantive areas of disagreement remain:

- 1) The SEC staff position, although somewhat revised, would still give the Commission effective authority to initiate and approve amendments to the plan. The plan, as submitted, provides that only the Consolidated Tape Association (CTA) -- with SEC concurrence -- should have this authority. The revised SEC staff position would not change the voting arrangements presently provided in the Plan for amendments proposed by CTA. These provisions require that the NYSE or the Amex (depending on which tape is affected) must exercise an affirmative vote on major amendments to the Plan.
- 2) Trading hours would be 9 a.m. to 5:30 p.m., Eastern Time, in accordance with SEC's June 13 comments. The original plan called for a study of trading hours and resolution of the issue before full implementation of the consolidated tape.
- 3) The SEC staff position -- unchanged from the Commission's June 13 comments -- would give the Commission discretion to decide whether or not to delete trades from the tape when trading is halted

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in any market for regulatory reasons. The plan, as submitted, requires deletion of trades from the tape whenever trading is halted in any market for regulatory reasons.

The Exchange staff believes that the revised SEC staff positions in six other areas may be regarded as acceptable to the Exchange. Briefly, these provide:

- 4) SIAC would be the exclusive processor of the tape for at least the first five years, but SIAC's performance would be reviewed by CTA after 2 years.
- 5) High-speed transmission lines must run to each vendor so that interrogation devices will remain current even when the tape runs late.
- 6) All NYSE and Amex stocks would be included on the tape. The Consolidated Tape Association would have flexibility to add regional stocks.
- 7) All contracts with subscribers and vendors would contain clauses affirming that they are subject to SEC rules and Federal law.
- 8) CTA would initially set standards to determine that vendors' equipment adequately identifies market where a trade takes place; vendors may appeal to SEC.
- 9) The SEC staff memorandum did not comment on the Exchange's position that adverse user reaction to the test phase of the consolidated tape must be considered before fully implementing the tape.

Finally, the SEC staff's December memorandum indicates agreement with the Exchange's August 10 comments regarding limits on retransmission of continuous tape data and circumstances under which a participant may withdraw from the plan. (The final category of issues, "Technical Matters," has never involved any substantive disagreement between the Exchange and SEC positions.)

The Board will recall that, to facilitate the review of the issues discussed in July, the staff prepared a summary of the 12 issue categories, in tabular form. This table has been updated to include both the SEC staff's positions as set forth in their December memorandum to the Commission, and recommended revised Exchange positions, where appropriate. The revised table is attached as Exhibit A.

The question of equal rules and regulations also remains to be resolved. The Exchange's position has been that appropriate specific rules and regulations should be in place prior to any live display of a consolidated tape. The staff believes it would be sufficient if the SEC were to agree that appropriate equal rules and regulations should be in place and to look to the participating exchanges and the NASD, with SEC concurrence, to determine what those rules should be.

Recommendations

1) The staff recommends that the Board reaffirm the Exchange's earlier positions -- as set forth in the consolidated tape plan and in the Exchange's August 10 comments to the SEC -- with respect to amendments to the plan and trading halts and suspensions.

2) The staff recommends that the Board modify the Exchange's positions on the remaining nine consolidated tape-related issues to agree with those set forth in the

SEC staff's December memorandum to the Commission, including the matter of trading hours.

If the Board adopts these recommendations, the Exchange staff will so notify the SEC staff.

3) It is further recommended that the Board authorize the staff to seek SEC agreement that appropriate equal rules and regulations -- to be determined by the participating exchanges and the NASD, with SEC concurrence -- should be in place prior to any live display of a consolidated tape.

DEPARTMENT OF GOVERNMENT AFFAIRS

EXHIBIT A -- REVISED SUMMARY TABLE OF NYSE AND
SEC COMMENTS ON CONSOLIDATED TAPE PLAN

TABLE SUMMARIZING COMMENTS ON CONSOLIDATED TAPE PLAN

SEC COMMENTS OF <u>JUNE 13, 1973</u>	NYSE COMMENTS OF <u>AUGUST 10, 1973</u>	REVISED SEC STAFF POSITION OF <u>DECEMBER, 1973</u>	TENTATIVE RECOMMENDED REVISED <u>NYSE POSITION</u>
I. <u>Amendments to Plan</u>			
<ul style="list-style-type: none"> a) SEC must approve; b) SEC may initiate changes in Plan; c) Amendments by CTA must be filed with SEC 45 days before effective and are subject to SEC approval and modification. 	<ul style="list-style-type: none"> a)b) Reaffirm provisions of the Plan which provide amendments can be made only by the CTA, by 5 affirmative votes, with major amendments requiring affirmative vote of the principal market (NYSE or Amex); c) Amendments should be filed with SEC under SEC Rule 17a-8 as are exchange rules. 	<ul style="list-style-type: none"> a) SEC "requests" CTA to adopt amendment within specified time; b) If CTA does not agree, must give reasons in writing to SEC which then decides if amendment is made effective; c) CTA vote to propose amendments remain as proposed, that is, by 5 affirmative votes with major amendments requiring affirmative vote of principal market (NYSE or Amex); d) CTA proposed amendments must be approved by SEC; e) Public comments would be solicited on major amendments. 	<p>Stay with Plan as filed (as per NYSE August 10 comments) pending passage of legislation with respect to consolidated tape, with some arrangement for SEC review or approval of amendments.</p>
II. <u>Evaluation of Performance of SIAC as Tape Processor</u>			
<ul style="list-style-type: none"> a) SIAC performance reviewed annually by CTA; b) Reports of review must be filed with SEC within 30 days after commencement of the review. 	<ul style="list-style-type: none"> a) Reaffirm provisions of the Plan providing SIAC as exclusive processor for 5 years, with review at end of 5th year and further review at least every 2 years; b) Agree to filing reports of review with SEC as soon as completed. 	<ul style="list-style-type: none"> a) SIAC exclusive processor for 5 years but review of performance made in 2 years; b) After 5 years, review every 2 years; c) Report of review filed with SEC within 90 days after commencement. 	<p>Agree with revised (December) SEC position.</p>
III. <u>Contracts with Processor</u>			
<p>All contracts with vendors and tape subscribers must contain clause that contracts are subject to federal securities laws and SEC rules and regulations.</p>	<p>Agree with SEC comment if amendments to Plan provisions remain as proposed in Plan.</p>	<p>No comment.</p>	<p>Agree with SEC June 13 comment.</p>
IV. <u>High Speed Transmission</u>			
<p>NYSE must keep data to interrogation and monitoring devices up to date through use of high speed transmission line, even though ticker tape may be late.</p>	<p>No position at this time, pending completion of NYSE staff study on costs and technical aspects of SEC proposal. Plan should not contain such a requirement until this study is completed and acted upon.</p>	<p>Only vendors receive high speed transmission line.</p>	<p>Agree with SEC revised (December) position.</p>
V. <u>Eligibility Criteria</u>			
<ul style="list-style-type: none"> a) Only those stocks which meet original Amex listing standards should be displayed on the tape; b) At least 25% of the reported transactions in a security are executed on an exchange. 	<ul style="list-style-type: none"> a)b) Agree with SEC comment, provided no existing NYSE or Amex stocks are excluded from the consolidated tape. 	<ul style="list-style-type: none"> a) All NYSE and Amex stocks included on tape with flexibility in CTA to add others; b) At least 25% of reported transactions in a security 	<p>Agree with SEC revised (December) position.</p>

TABLE SUMMARIZING COMMENTS ON CONSOLIDATED TAPE PLAN

are executed by an
exchange.

SEC COMMENTS OF <u>JUNE 13, 1973</u>	NYSE COMMENTS OF <u>AUGUST 10, 1973</u>	REVISED SEC STAFF POSITION OF <u>DECEMBER, 1973</u>	TENTATIVE RECOMMENDED REVISED <u>NYSE POSITION</u>
<p>VI. <u>Limitations on Retransmission</u></p> <p>Private vendors (Bunker-Ramo, Scantlin, etc.) would be permitted to retransmit continuous tape data <u>unless</u> format was a "continuous, moving ticker display."</p>	<p>Reaffirm provisions of the Plan prohibiting retransmission of consolidated last sale prices on a continuous basis, subject to exceptions permitted by CTA.</p>	<p>Agree with NYSE August 10 comment.</p>	
<p>VII. <u>Market Identification</u></p> <p>a) Only SEC could decide, with respect to interrogation devices, on exemptions from requirement that market where trade takes place be identified;</p> <p>b) Distinct market identification be provided in plan for broker-dealers which are <u>not</u> exchange or NASD members.</p>	<p>a) Reaffirm provision of the Plan requiring market identification on all displays, except where device incapable of doing so;</p> <p>b) Agree with SEC comment, but raise the problem of reporting and displaying trades in the 4th market and automated trading systems, such as Instinet.</p>	<p>a) CTA initially set standards for market identification, with appeal to SEC.</p> <p>b) Distinct market identification be provided in plan for broker-dealers which are <u>not</u> exchange or NASD members.</p>	<p>Agree with SEC revised (December) position.</p>
<p>VIII. <u>Trading Halts and Suspensions</u></p> <p>SEC would decide whether or not reports of transactions in a stock from all reporting markets should be deleted from the tape whenever one market halts trading in that stock for regulatory reasons.</p>	<p>Reaffirm provisions of the Plan requiring deletion of trades from the tape when trading halted in any market for regulatory reasons.</p>	<p>No change from June 13 position.</p>	<p>Stay with Plan as filed (as per August 10 comments).</p>
<p>IX. <u>Trading Hours</u></p> <p>a) Tape will run while any national securities exchange is open and the SEC is open (9 a.m. to 5:30 p.m. Eastern time);</p> <p>b) Later trades reported on tape prior to next day's opening.</p>	<p>a)b) Reaffirm provisions of the Plan providing for study of hours of tape operation and a resolution of the issue prior to full implementation of the consolidated tape.</p>	<p>No change from June 13 position.</p>	<p>Agree to 9 a.m. to 5:30 p.m. tape hours as per SEC June 13 comments.</p>
<p>X. <u>User Reaction Test Tape</u></p> <p>SEC does not object but apparently would not allow adverse user reaction to be a basis for a delay in implementing the fully consolidated tape.</p>	<p>Reaffirm necessity to consider adverse user reaction after test phase before proceeding with fully implemented consolidated tape.</p>	<p>No comment.</p>	<p>Stay with Plan as filed (as per NYSE August 10 comments).</p>
<p>XI. <u>Withdrawal from Tape Plan</u></p> <p>Exchange may not withdraw from tape Plan without SEC approval.</p>	<p>Participants should not be required to waive the right to withdraw from the Plan, but should be required to give 6 months' advance of intent to withdraw, as provided in the Plan.</p>	<p>Agree with NYSE August 10 comments.</p>	
<p>XII. <u>Technical Matters</u></p>			

No substantive issues raised.

Agree with SEC comments.