

**Common position paper by
DGAP, news aktuell, Hugin, and Deutsche Börse**

**on CESR's Call for Evidence regarding technical advice on possible
implementing measures concerning the Transparency Directive – Storage
of regulated information and filing of regulated information
(Ref.: CESR/05-493)**

General comments

The major service providers on the German market in the area of disseminating regulated information, Deutsche Gesellschaft für Ad-hoc-Publizität (DGAP), news aktuell, and Hugin, together with Deutsche Börse Group appreciate being given the opportunity to comment on the new “Call for Evidence” concerning the formulation of possible implementation measures for the Transparency Directive put forward by CESR. We believe a storage system that makes regulated information easily accessible all over the EU would further increase the level of investor protection, and it would make the European capital market more efficient by increasing its degree of integration.

For the time being and considering the early stage of the consultation process, we would like to focus our comments on the following aspects:

- We support the proposal of making information available in an electronic format.
- We emphasise the importance of high security standards applicable to the OAM.
- We recommend the use of XBRL as an input standard.
- We propose to prevent OAMs from abusing their privileged access to regulated information by engaging in the area of information dissemination as well. This applies especially to the dissemination of price-sensitive news for which we recommend a delayed accessibility to regulated information on the OAM.
- In order to enable freedom of choice for issuers in the way they transfer information to the OAM, we suggest that the OAM is obliged to use an open interface vis-à-vis issuers and/or service providers.

We believe that regulated information should be made available by the OAM only in **electronic form**. Additional security standards that need to be fulfilled include **firewalls** to protect the storage system against any attempt to manipulate data from outside. Standard methods of ensuring **authenticity of origin** need to be applied. Technically, the use of “virtual private networks” could be useful (see <http://www.vpnc.org/vpn-standards.html>).

Concerning the **input standards**, we support at least the optional use of **XBRL** as a standard that can be used to “tag” **quantitative** regulatory information, thus making it amenable to

further processing for research purposes in any language. In addition, the standard **NewsML** is useful for regulatory information in a **text** format, especially price-sensitive ("ad-hoc") news (for further information, see www.xbrl.org and www.newsml.org).

Content checking seems to us a task that neither the OAM nor the service provider should be burdened with. As long as the issuer can be made liable for distributing misleading information, such checks seem **unnecessary**. They could even prove counterproductive since they might provide disincentives to the issuer to provide information with due diligence. In addition, for certain kinds of regulated information, special supervisory agencies already monitor the contents.

Concerning the language regime we would support the idea that information needs to be supplied in a **language commonly used in financial markets**. In addition, it should optionally be supplied in the language of the issuer's home country.

Further thought should be given to a possible **differentiation in the treatment of various forms of regulated information**. For price-sensitive news, such as ad-hoc information as required by the Market Abuse Directive, as well as possibly directors' dealings and major shareholdings, fast and efficiently functioning push-mechanisms are essential.

Efficiency also implies, as already argued in the CESR advice on dissemination, the existence of level-playing field competition among service providers and between them and companies that choose to perform this function in-house. If price-sensitive news, however, had to be published by the OAM as well in real-time, this would give the OAM a strong competitive edge over the information providers and would with great probability lead to a decrease in competition on the market for dissemination. Therefore, we would suggest making price-sensitive news available by the OAM, if at all, with a **15 minute delay** only.

Another important issue that in our view so far has not received sufficient attention concerns the **interface** through which information can be supplied to the OAM. Since the CESR advice that has so far been published strongly emphasises the need for **competition** among service providers and in addition with issuers that choose to fulfil their reporting requirements on their own, it is essential that the OAM is required to maintain an **open interface vis-à-vis issuers or service providers**. Only by guaranteeing open access to competing service providers and/or issuers market forces can provide incentives to both service providers and OAMs to act in an efficient and user-driven fashion.

The **cost of maintaining a data interface** for regulated information should not be underestimated. Such a link needs to be fed in an automated form with the appropriate data, taken care of if he suffers a breakdown, and reformatted in case of a new technical release. An OAM, unless it is closely supervised by the competent authority and obliged by law to maintain an open interface, cannot be expected to provide the service level companies are used to when dealing with competing commercial service providers. The best way of minimising the cost for the issuer is therefore a system of **competing service providers** that act as intermediaries to competent authorities, media and OAMs. Part of this competition is of course that issuers must be allowed, as currently foreseen, to insource the service provider.

The role of service providers in the dissemination process as an intermediary between media and issuers applies to the relation to the OAM as well: **Service providers** act as **competing**

one-stop shops for issuers that choose to outsource the fulfilment of their reporting tasks (see the chart in the appendix, spelling out the two basic options that should be left open for organising the dissemination and storage of regulated information). In relation to media, in particular to electronic financial news agencies, which play an essential role in “pushing” regulated information to investors, they perform the function of bringing regulated information into a format suitable for safe and immediate EU-wide publication. At the same time, they can transfer this information to national competent authorities as well as to the OAM. For the issuer, this would have the advantage that he does not have to create and maintain information channels with the required bundle of media, the regulator and the OAM. The choice of using one of several competing service providers as well as the liberty of performing these functions in-house, however, should be left entirely to him.

We will gladly continue to contribute to the consultation process.

If you need further information or would like to discuss certain issues raised here, please feel free to contact:

Reinhold Röhrig
Managing Director
DGAP GmbH
Neue Börsenstr. 1
60487 Frankfurt/Main

Carl-Eduard Meyer
Chief Executive Officer
news aktuell GmbH
Mittelweg 144
20148 Hamburg

Matthias Erler
Geschäftsführer
Hugin IR Services Deutschland GmbH
Gassnerstr. 23
80639 München

Achim Brosch
Market Policy
Deutsche Börse AG
Neue Börsenstr. 1
60487 Frankfurt/Main

+49 69 211-18253
achim.brosch@deutsche-boerse.com

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Option 1: Issuers report directly

