

**Re: CESR's revised draft Technical Advice on Possible Implementing Measures of the
Transparency Directive**

by

news aktuell GmbH
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In addition to what we have pointed out in our first document in January 2005, we would like to answer to the questions of the above revised technical advice as follows:

Questions 1 and 2

We fully agree with the proposals made in 17. and 18. of the revised draft. As to the question which distribution channels should be mandated, we would support the idea of having to be able to reach at least the key national newspapers, the major newspapers and major financial services as well as specialist news providers delivering news to the financial communities. A number of major financial websites should also be included as a minimum standard so that the information is instantly also available to the public, interested investors and analysts.

Questions 3 and 4

We fully agree with the idea that the connections between issuers and media should be based on electronic systems – ideally a direct feed into editorial systems wherever possible – for the following reasons:

Fax technology is mostly not simultaneous (incoming delays due to technical problems or high volume on the receiver's side) and a cost factor for any receiver – which might inhibit the idea of widest possible distribution.

E-mail distribution is even more problematic in our mind as it has strong security lacks: e-mails might be manipulated while on their way to the media, sender addresses can easily be faked, etc. Also, there is no monitoring for the sender (no feedback from the receiving server whether a message has arrived or not). Therefore, e-mail might be used only as an add-on means of distribution to additional receivers such as analysts or private investors.

A direct feed into media's editorial systems, via satellite, e.g. – a technology preferred by news agencies and daily newspapers due to its rare technical failures and down times as well as simultaneous delivery to all receiver's systems – would be the ideal solution from our perspective: It would guarantee high security standards and an almost 100% availability of systems at the receiver's side,. Also – as in contrast to e-mail delivery to editorial mailboxes etc. – the releases would be easy to find and identify as they would be coded with a special identification code for regulated information as well as keyword etc. As the releases would be available to journalists in a digital format directly inside their systems,

the likeliness for usage would be much higher as re-typing etc. would not be necessary. Specialist news providers could even process these news automatically.

Also, if there are communication technologies such as FTP used for sending to the essential newsmedia or financial news services, it would be necessary from our point of view to use only the secure version, such as Secure FTP or SFTP, or, for instance, VPN (Virtual Private Networks) to exclude the possibility of manipulation.

Another aspect which has not been discussed in detail so far, is the connection or the **communications technology used by an issuer to send news to a provider**. We believe this aspect should also be considered as the same aspects described above apply here: It does not help much when a provider uses latest digital technologies for distribution to the media if the information flow from the issuer to the provider is by fax or e-mail, with all the risks described above. This relates also to point 66. on page 18 of the Revised Draft document „management of regulated information by the service provider“. We believe if a service provider offers such a product, he should make very secure and direct feeds available to the issuer to exclude time delays, security and other risks.

Question 7:

We agree that an identification number or code for each announcement would be useful. From our own experience, however, we believe setting up such a mechanism would be quite complex, as it would have to connect different databases with possibly different data and file structures. If such a system could be established by the service providers together with an overall and central storage mechanism, it would be very useful. If some issuers will do the distribution by themselves (which we do not favour unless the issuers are able to comply with high security and communications standards necessary for the above described reasons) it will be very difficult to integrate this data feed into an overall solution.

Question 8:

In the case of a provider network doing the distributions, we could well imagine a „provider code“ plus a provider-own numbering system (possibly including a year's numbering). A news aktuell release could be „na/211/05“, for instance: „na“ representing news aktuell as a service provider, „211“ would be our internal database file number for the specific release, and „05“ would be 2005 which could be added automatically by the storage system).

This system has the advantage that for the internal database file number, there could be different systems for each provider, depending on their file or database structure, which would simply be mirrored in the overall filing mechanism. We believe that a unique counting system valid for all providers would be too complex to realise as there will be problems with double numbering etc., and each provider would have to do extra development work to implement such a numbering system.

Questions 9 and 11

We fully agree with the proposals made in 28. and 29, for the following reasons:

- Free and fair competition:

If, for instance, a stock exchange or daughter company or joint venture of a stock exchange acts as a service provider, in our mind there would almost be no chance for any other

service provider to successfully compete if the stock exchange were allowed to mix the distribution fees with other offerings or services, e.g. including the distribution service in their listing fees (which would then most likely be increased, and companies would have no choice but to pay them anyway). As described in our January document Germany is a good example of a former de facto monopoly for distribution of regulated information as the DGAP as a joint venture of Reuters, the German Stock exchange and the financial news service vwd, were, had, for a long time, the only legal channel for distribution of ad hoc news so we in fact know this from experience. In Britain, there was a similar constellation with the London Stock Exchange and the RNS.

Also, issuers should be enabled to freely decide on a distribution provider and thus be able to get clear and fair information on pricing and services of the different service providers for comparison.

Clear separation of functions as media and service providers:

This is also essential in our eyes, as media must not be enabled to make use of information not yet publicised, using a time advantage due to their function as a service provider. In cases where media also act as service providers, they should be able to prove that their editorial staff and systems will not receive this information in advance of other media.

Question 10

We agree on this point, as well, for the above described reasons, and because the competent authorities should not be allowed to make excessive use of their obvious advantage as far as reputation, seriosity and ability to guarantee fulfilment of dissemination duties are concerned by making issuers insecure about using other service providers.

Question 12:

We fully agree on this issue for the following reasons:

Generally spoken, this concept would impede the idea of widest possible reach for regulatory information.

As stated in several other paragraphs of the Draft Advice, all media should be able to receive the regulated information „on a non-discriminatory basis“. That includes delivery free of charge as smaller or specialist media which might only make use of these releases from time to time might, due to financial reasons, decide not to „subscribe to“ such a data feed.

We even believe cost-free delivery to the media should be a „must“: If several competing service providers are in the market, media might decide to only receive the cost-free content, and that would clearly impede the idea of widest possible reach and „equal access“ to all regulatory information.

Also, if a provider decides to charge the media he might be able to offer his services to the issuers at lower costs – which would give him an unfair disadvantage to a provider who is interested in widest possible distribution and would include – at his own cost – additional content, e-mail and other services to reach even private investors, analysts and others who don't have direct access to media's editorial systems, financial services etc. From our perspective, the fees to cover the service provider's costs should be collected from the issuers only.

Question 13:

We strongly believe this is possible as news aktuell has been in this business for a number of years successfully now with a disclosure and financial news service which we set up for the German speaking markets as a joint venture with the Swiss news aktuell office and the Austria press agency (APA)

We have a clear philosophy of widest possible reach, including – in addition to the delivery to stock exchanges, competent authorities, Reuters systems etc. - delivery to content partners and specialist financial services via FTP and other means, a free-of-charge, a-mail subscription service available to any interested person, archiving in our own database freely available on the Internet, etc. As we have – as far as possible – automatised distribution processes by providing an issuer a secured internet interface for their distributions, there is – apart from the one-time development cost – practically no cost-intensive manual processing involved. This allows us to keep the prices for issuers low and at the same time guarantees the issuers and the media a high level of security, speed, simultaneous distribution. At the same time, it minimizes errors (e.g. through re-typing) and provides full monitoring of the release status for the issuer (through the system).

Question 14:

As described in our earlier document, we consider an approval procedure with minimum standards for service providers essential: From the point of view of an issuer who will be held responsible for the correct dissemination of regulatory information, and also from the point of view of the goals of the directive: widest possible reach and access to the information for all interested parties. With regards to the risks of some conventional communications technologies described above, service providers should have the means to provide optimised distribution, monitoring and archiving efforts the continuous enlargening of their circuits. For the issuers it would be very useful for their decision on who to use for distribution to have the different service providers checked by a neutral body.

If this cannot be established however, a document by service providers with clear statements on their respective distribution technology, security standards, etc. would be absolutely essential. This document would have to comply with some minimum standards (of information) and be quite detailed and explicit.

Question 15:

As described, we would regret if such an approval would not be mandatory, but we would agree with future work being necessary on how to establish an „approval system“ even in that case. The competent authorities in the different countries might have different views on this, with the result that service providers in one country might be judged differently (by the authority of their home state) from others – again, impeding fair competition and confusing issuers who might be willing to use service providers outside their home states.

A discussion and some kind of agreement on desirable standards for dissemination would thus be very helpful – possibly also among the authorities of the different member states. Maybe at least a kind of „seal of approval“ – even if not mandatory – for providers who fulfil certain standards – could be established.

Hamburg, May 26, 2005

Peter List