

French Data Vendors Association

CESR SECRETARIAT
Mr. Fabrice Demarigny

11-13, avenue Friedland
F - 75008 PARIS

Paris, 17th of January 2005

Dear Mr. Demarigny,

The French Data Vendors Association (FDVA) welcomes the opportunity to comment on CESR's consultation paper (ie CESR's Draft Technical Advice on Possible Implementing Measures of the Directive 2004/39/EC on Markets in Financial Instruments – 2nd Set of Mandates, October 2004).

1/ Objectives and Membership of FDVA

a/Objectives

The FDVA aims at supporting developments on the French financial data market and also at fostering its dynamism and its attractiveness by:

- ▶ Communicating and sharing experiences with clients in order to improve the satisfaction level with their market data and information solutions,
- ▶ Meeting with users' associations and all professional players involved in market data solutions,
- ▶ Working on new major business challenges related to market data redistribution within the French market,
- ▶ Meeting with regulatory bodies and market places,
- ▶ Working on business best practices,
- ▶ Working with sister international associations.

The FDVA is a unique place for French financial data vendors to meet and talk about their industry. The FDVA works closely with the Software & Information Industry Association – Financial Information Services Division (SIIA –FISD).

b/FDVA members

The FDVA regroups professionals of financial data and information active in France such as AFP, AFX News, ComStock, Dow Jones Newswires, FIDES Information Services, Fitch Ratings, FT Interactive Data, GL TRADE, Infotec, Moody's, Standard & Poor's, Telekurs Financial, Thomson Financial, and Trader Force.

2/ FDVA's General Comments on MiFID

With regards to the MiFID implementation measures, the FDVA is very concerned about the fact that the MiFID impacts still remain very unclear.

We would like to emphasise the importance of financial information in ensuring transparency to investors. Financial information is indeed at the forefront of investment services and access to such information is therefore critical at any stage throughout the investment lifecycle.

We would like to thank the CESR for its involvement and in particular for the work produced to strengthen the protection of investors. The FDVA also believes that fair access to information will play a critical role in protecting investors and we therefore urge CESR to further clarify the notion of fair access to financial information.

We would like to take this opportunity to provide the following general comments on the consultation paper:

In our views, "Financial Information" should cover the following areas:

- **Market data**; including data feeds & quotes from stock exchanges, MTFs, ECNs, and systematic internalisers
- **Issuers & regulated information**
- **Comments & analysis**
- **News**

We regret that the MiFID does not take into account our activity in its definition title, but we hope the CESR will be able to clarify our position when defining the MiFID implementation guidelines.

To the FDVA, it is essential to recognise data vendors as key players in the transparency process.

If MiFID fosters competition in liquidity; it will also increase competition in financial information, which is a positive thing from our perspective.

The FDVA, which represents the major players in the whole financial information market, regrets that the CESR does not clearly highlight these consequences and therefore asks the CESR to clarify some aspects relating to Financial Information within MiFID.

Further, the FDVA strongly requires the CESR to clearly define that, within their duty to publish financial information, investment firms, systematic internalisers, MTFs and RMs also **have the duty to deliver such financial information through technical and commercial means that ensure easy access** to such information within the financial community.

From our viewpoint, this will ensure better information dissemination – since the infrastructure to collect such feeds already exists-; avoid monopolistic situations in the financial information market, particularly on quote information, whilst promoting fair competition within the data vendor community.

Briefly, we ask the CESR to give a clear answer to the following questions concerning our business activities:

- What will be the minimum technical standards for data dissemination?
- Does the CESR intend to add in the MiFID implementation guidelines any rule to avoid the creation of a monopoly in market data and financial information?
- Does the MiFID add a new regulatory framework to financial information providers?
- What is the impact of the MiFID on existing regulation such as the SIIA – FISD frameworks?

As a conclusion, we ask the CESR to confirm that, with the MiFID, it will still be possible to have access to financial information on fair conditions, both technically and commercially, throughout the whole order flow, from pre-trade to post-trade. We also hope that, to the best of its ability, the European Community will set up adequate mechanisms to supervise and control the MiFID implementation effectively.

3/ FDVA's Priority Issues on the Consultation Document

3.3 Conduct of Business Rules (Article 19)

3.3.1 *Obligation to act fairly, honestly and professionally in accordance with the best interests of the client*

3.3.2 *Suitability Test / Appropriateness test / Execution only business*

3.3.3 *Execution Only*

On point 3.3, the FDVA agrees on the principle detailed by CESR. We would like to highlight that data vendors can play an important role in ensuring that investment firms comply with the MiFID. However, data vendors should have no contractual responsibility on the information delivered through their networks, unless such information is generated by the data vendors themselves.

3.4 Best Execution

The FDVA thinks that data vendors can be a corner stone in the information dissemination process and can therefore play a key role in implementing the best execution rule. For data vendors to successfully carry out this function, financial information needs to be made available easily both technically and commercially.

3.6 Eligible counterparties (Article 24)

3.7 Transparency

According to its formal mandate, the CESR is asked to take "all the necessary elements for eliminating the barriers for the consolidation of market information as well as all other means for ensuring that this information is handled in a manner that provides for its effective consolidation".

The FDVA completely agrees with this mandate. Ensuring an easy access to financial information, both technically and commercially, is essential to reach this objective.

The members of the FDVA have proven over time their ability to aggregate and consolidate financial information (quotes, news, analysis...) to respond to the needs of their clients. Data vendors are able to do it since market participants such as RMs are keen to sell their feeds and have a duty to make such feeds available on a level playing field basis.

4/ On specific issues mentioned by the CESR:

1. **Definition** - BOX 14 (p. 62 of the consultation paper). We agree with the CESR on the fact that internalization does not only relate to IT or automatic systems. In respect with the announcement of cessation of internalisation, we would like to underline that the channel used to send a quote ("quantitative") is usually not the same as the one used to send "qualitative" information.
2. **Scope of the rule:** With regard to the issue of liquidity, providing the market with the means to aggregate financial information is critical if the CESR wants to ensure that investors get a broad view of the market, especially as it relates to internalisation.
3. **Obligation of the systematic internalisers:** We would like to emphasise that publishing a quote on a website does not meet the "easy accessible" test. Both retail and institutional institutions receive market data feeds on a trading or visualization workstation. Authorising internalisers to only publish the quotes on a website may increase market data fragmentation and lower market transparency. Moreover, information dissemination is easier and wider through a technical approach based on data feeds.

4/ The FDVA proposal

To sum up our position, we would like the implementation guidelines to include the following:

A market actor who has to publish data (quote, post or pre trade information, ...), should be under the obligation to ensure its dissemination as follows:

- 1- By providing a **feed technically accessible and exploitable**:
 - a. Based on standard format (XML, FIX...) or/and sets of API (Application Program Interface)
 - b. Website is not a sufficient option
- 2- With an obligation to making the data available to:
 - a. All data vendors on a level-playing field basis,
 - b. And, if access to the feed is subject to payment of fees, on commercial terms that are fair and respect European & local legislation .

In addition, we ask the CESR to clarify which institution or legal body would be in charge of ensuring the consistent implementation of the Directive and of resolving disputes if necessary.

The FDVA and its board remain at the disposal of the CESR for any further comments or explanations. It is also our pleasure to contribute to CESR's important work on financial information.

Yours sincerely

Fabrice Blanc
Chairman of the FDVA

Rodney Geres
Vice-chairman of the FDVA