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Committee on Energy and Commerce

SUBCOMMITTEE ON TELECOMMUNICATIONS AND FINANCE

Washington, DC 20515

July 29, 1987

LAWRENCE A. SIDMAN  
CHIEF COUNSEL AND STAFF DIRECTOR

Mr. John J. Phelan, Jr.  
Chairman and Chief Executive  
Officer  
New York Stock Exchange  
11 Wall Street  
New York, New York 10005

Dear Mr. Phelan:

I was pleased that you had the opportunity to come by and meet with Ed Leahy, Royce Griffin and me last Thursday. The enclosed Wall Street Journal article reminded me of your reference at the meeting to the fact that the New York Stock Exchange is in the process of taking a closer look at its arbitral procedures. As Chairman of the House Subcommittee on Telecommunications and Finance, I have received numerous expressions of interest with regard to the recent Shearson/American Express v. McMahon decision. I am interested in learning more about the arbitral procedures in place at the New York Stock Exchange, about the contemplated changes in those procedures, and about your thoughts on the arbitral process for broker-customer disputes.

In particular, I would appreciate information concerning the following: (1) general background regarding the existing procedures at the New York Stock Exchange governing the arbitral process; (2) changes you are considering in that process and the goals you hope to achieve thereby; (3) existing supervisory and oversight procedures; (4) arbitrator selection criteria and procedures; (5) a numerical break-down of disputes resolved under the auspices of the New York Stock Exchange for each of the past five years (1982-86) according to type of dispute summary of allegations, prevailing party, amount in controversy, and award, if any; (6) the rules of procedure you employ (e.g., American Arbitration Association, Chamber of Commerce, or other rules); (7) discovery procedures available to parties, including extent and kind; (8) any experience the New York Stock Exchange has with class action arbitration; and (9) the average time from initial complaint to final resolution of the dispute. In addition, if you have any other information that you think might be helpful to a complete understanding of your arbitral process, I would appreciate your including it.

I would appreciate your response by August 10, 1987.

Sincerely,

Edward J. Markey  
Chairman