ENDING A NYSE TRADITION: THE 1975 UNRAVELING OF BROKERS' FIXED COMMISSIONS AND ITS LONG TERM IMPACT ON FINANCIAL ADVERTISING

Janice M. Traflet
Bucknell University

Michael P. Coyne
Bucknell University

On May 1, 1975 ("Mayday"), the New York Stock Exchange jettisoned its 183 year old tradition of fixed rate broker commissions in favor of competitive, negotiated rates. While many events, institutions, and individuals helped inspire this controversial policy change, this paper focuses on the pivotal role played by one Exchange insider, NYSE President Robert Haack. Despite his original stalwart defense of fixed rates, Haack came to support rate deregulation. Haack's rationale for endorsing negotiated rates is evaluated as well as how the new commission fee structure led to surprising changes in the advertising landscape on Wall Street. This paper argues that Mayday transformed the securities industry in more ways than anyone had envisioned at the time.

In the late 1960s, the New York Stock Exchange (NYSE) still stubbornly clung to a tradition instituted by the organization's founders almost two centuries earlier: the requirement that member brokers charge customers minimum commission rates.[1] The NYSE Board of Governors adamantly upheld both the necessity and legitimacy of "fixing" rates. However, a relatively short time later, in 1975, the Board unanimously agreed to jettison fixed rates in favor of competitive, negotiated rates. The decision went into effect on May 1, 1975—"Mayday," as Wall Street traders termed the momentous event.[2]

What or who caused such a wholesale policy reversal? The Justice Department as well as the Securities and Exchange Commission (SEC) had long disapproved of the price collusion, and for reasons that will be discussed had recently heightened pressure on the NYSE to end the practice. Yet the impetus for rate deregulation did not solely originate from organizations outside the Exchange; it also emanated from within the institution. The contributions and motivations of these internal reform advocates have not been well understood. To rectify this, the first section of this paper will explore how and why one pivotal NYSE member, President Robert Haack, decided to accelerate the path to Mayday, despite his original stalwart defense of fixed rates. In the second section, the paper will examine one unforeseen impact of rate deregulation—a dramatic rise in financial services advertising—and we evaluate that legacy in light of Haack's rationale for supporting negotiated rates. The conclusion will discuss how negotiated commission rates changed the landscape on Wall Street in more ways than either foes or advocates had envisioned.

The Stalwart Defender of Fixed Rates: Newly Inaugurated President Robert Haack

In April 1967, the NYSE Board of Governors unanimously chose Robert W. Haack to be the NYSE's new president, succeeding the retiring George Keith Funston. Haack's credentials were impressive: as president of the National Association of Securities Dealers (NASD) since 1964, he had improved its operational efficiencies, in part by encouraging the adoption of an automated quotation system for over-the-counter stocks. Perhaps especially appealing to the NYSE Board was Haack's extensive experience at NASD dealing with SEC regulators. The NYSE thus far had successfully resisted implementing the SEC's 1965 "recommendation" to unfix rates,[3] but Board members feared the battle would escalate. Consequently, they wanted a competent defender of fixed rates at the helm of the NYSE.[4]

Minimum commission rates were a source of great profits for member brokers, but Robert Haack upheld the rule for less mercurial reasons-he believed that fixed rates assured the vitality of the securities industry, and hence the country. Conversely, ending minimum rates might unleash many hazards, such as ruinous competition among brokers. Like many colleagues, Haack believed that the securities business was among the few industries that were especially vulnerable to destructive competition, and therefore, the NYSE was justified in price-fixing. Haack dismissed arguments that the rate rule violated antitrust laws by discriminating against non-members. He concurred with prevailing Exchange thought that the institution was essentially exempt from antitrust laws because it was supervised by the Securities and Exchange Commission. Finally, in Haack's conservative opinion, it would be dangerous to terminate a practice that had been in operation for almost two centuries.[5] Given Haack's protective attitude toward fixed rates, combined with his other qualities, it is little wonder that the Board viewed Haack as the best choice to lead the NYSE at this juncture.

After assuming office in the fall of 1967, President Haack immediately faced a major problem—a massive "paperwork crisis" caused by back-office inefficiencies in processing a rising volume of securities transactions (not entirely unlike the recent backlogs of derivatives trades). The NYSE Board responded by enacting several remedial measures, such as abbreviated trading sessions to allow brokers time to catch up on the paperwork and methods of improving automation. Haack supported these initiatives, but also vigorously endorsed a more controversial measure: ending the Board's sponsorship of a marketing program designed to attract new individuals to Wall Street. "Own Your Share of American Business" had been a pet project of the NYSE since the early 1950s. Nevertheless, Haack believed it was irresponsible of the NYSE to encourage more people to come into the market at a time when Wall Street was having difficulty processing existing customer transactions. Though unpopular for criticizing "Own Your Share," Haack nevertheless managed to convince sufficient Board members to terminate the program. In retrospect, Haack's willingness to challenge Own Your Share was a harbinger of his later actions with respect to fixed rates. The episode also highlighted to Haack the underlying inefficiencies at the NYSE, which fixed rates arguably fomented.

Concurrent with the paperwork crisis, Haack also immediately faced (as predicted) a mounting attack on the organization's commission structure. In the same month that Haack was elected to office in April 1967, the Justice Department's Antitrust Division formally urged the NYSE to implement negotiated rates. Justice Department officials argued that price-fixing would only be legal if it were necessary to assure the proper functioning of the Exchange, which in their opinion it did not seem to be.

A recent sharp rise in institutional trading explains why the Justice Department was now, and not earlier, attacking fixed rates with such gusto. In 1950, individual investors accounted for 80 percent of trading, whereas by the mid 1970s, institutional investors accounted for 75 percent of trading-almost a complete reversal of positions.[6] Given that brokers earned the same percentage amount on a transaction for 10,000 shares as they did on 100 shares, brokers who processed large-block trades now were earning fat fees. The NYSE defended these fees in part by noting that brokers passed "soft dollars" to institutional clients to fund needed equity research. But to critics, the large commissions seemed not only unnecessary, but also harmful; investors probably paid more for trades than they would have if there was no minimum rate rule. It also seemed unfair for the NYSE to prevent members from giving clients volume discounts if members wanted to do so. Critics also noted that illegal reciprocity arrangements flourished under the fixed rate system, as some greedy brokers used questionable means to secure the big deals and the correspondingly large commissions. The practice of brokers splitting commissions, known as "give-ups" generated abuses. Finally, foes of fixed rates criticized the Exchange's existing high minimum fee structure for protecting inefficient brokerage firms that might not have been able to stay in business had their rates been set by the market.[7]

Apparently ignoring these arguments for rate deregulation, Robert Haack continued in 1968 and 1969 to vigorously defend the Exchange's supposed right to set minimum commission fees. Testifying at an SEC hearing on the subject in 1968, Haack warned that negotiated rates could be "the undoing of the world's principal securities market" and that they would not only hurt Exchange members, but also the public. He was not precise about exactly how competitive rates might inflict harm; his basic premise was that no one could predict the outcome of deregulation, and thus it was a foolhardy risk. "This is not an area where one experiments, tries a new system and returns to the old if the results are unsatisfactory," Haack emphasized. He bristled at the Justice Department for acting upon an unproven "theoretical concept" that price-fixing was inimical, without gathering "supporting facts or economic data."[8]

In a remarkable change of attitude, however, by 1970, President Robert Haack had come out forcefully for negotiated rates. In a way, it should not have been surprising that Haack would eventually come to see the allure of competitive rates. As head of NASD, he had prioritized improving efficiency, and as president of the NYSE during the paperwork crisis, he had observed first-hand the need to likewise improve Exchange operations. While additional computerization was one solution to the Exchange's problems, Haack also became convinced that another solution was unfixing rates, as he came to agree with critics that large, uncompetitive fees hid bloat. Haack was a practical man, and less conservative than his colleagues initially believed him to be: he was not going to defend minimum fees simply because this was the way things were always done at the NYSE. Moreover, Haack was a man of principle and he also came to decry fixed rates because he believed this system had fomented a decline of ethics in the securities industry. Still, the very public manner by which Haack announced his conversion stunned Wall Street.

Haack's Reversal

On the evening of Tuesday, November 17, 1970, Haack delivered what *The New York Times* would label the next day as "perhaps the most controversial speech ever given by a Big Board president."[9] More than one thousand members of the prestigious Economic Club had come to a dinner expecting to hear Haack deliver a talk innocuously entitled, "Competition and the Future of the NYSE." It seemed as if this would be a standard spiel about the virtues of the institution and the challenges lying ahead. Yet Haack immediately tipped the audience that something unusual was about to come when he began with a disclaimer: "Assertions and questions which I will pose are expressed to me as an individual and do not necessarily represent the views of the board of governors."[10]

Haack then proceeded to attack the Exchange's fixed rate rule in unequivocal terms. He derided fixed rates as the "single greatest reason" why the Exchange was losing business to other, cheaper competitors like the so-called "third-market".[11] Besides this "market fragmentation," fixed rates had also resulted in "indiscreet excesses" at the NYSE due to creative fee-splitting and had also fostered "inept management" at many brokerage firms. Haack concluded that the NYSE, for its own sake, needed to discard "archaic and anachronistic practices and procedures." It needed to restructure itself "to meet the changing times of our society." He warned, "whatever vestiges of a private-club atmosphere which remain at the New York Stock Exchange must be discarded."[12]

The governors of the NYSE, not just the Economic Club attendees, were shocked by the candor and content of Haack's speech. NYSE Chairman Bernard Lasker was enraged in part because Lasker upheld fixed rates, and in part because Haack seemed to have usurped the chairman's role of dictating policy. The NYSE president's endorsement of negotiated rates seemed to indicate, despite Haack's disavowal, that the entire Board was rethinking its stance.[13]

Haack did not back down or soften what he had said; rather, in later interviews, he reiterated the crucial need to dismantle the existing commission fee structure.[14] Haack was clearly unrepentant. Nor did he regret publicly airing his position, though it was tradition at the NYSE for members to discuss their differences privately. Haack believed he needed to bring the issue to the surface in order to foster discussion of rate policy both inside and outside of the NYSE. As Haack maintained, his open denouncement of fixed rates was a "calculated risk" to trigger reform.[15]

While Lasker and other irate Board members unsuccessfully demanded Haack's immediate resignation, other members supported him. The pro-Haack, anti-fixed rate contingency tended to be larger companies among the Exchange members, who stood to gain business if they could be allowed to cut their rates below competitors'. These brokers were confident that their operations were so tightly run that they could afford to lower rates. Two of Haack's biggest allies were Merrill Lynch, the largest retail brokerage firm at the time and Salomon Brothers, a major player in the wholesale block market. As the *New York Times* predicted, Merrill Lynch and Salomon Brothers would "set the rates in a negotiated system," so they had little to fear and much to gain by the unfixing of commission fees.[16]

In the ensuing months after Haack's bombshell speech, several brokerage houses, including the once well-regarded McDonnell & Company, went bankrupt. The string of failures reinforced Haack's point that the comfort zone provided by fixed rates had allowed too many brokerage houses to become careless in their operations. Making matters worse, the failures were often accompanied by scandals; some firms had misappropriated customers' cash and securities in desperate efforts to remain solvent. Haack's observation that ethics on the Street were unraveling seemed prescient.

Still, however, the NYSE Board resisted capitulating on the rate issue. Although the Exchange membership in April 1971 agreed, by a relatively narrow vote, to allow negotiated rates on the portion of orders over $500,000, the NYSE still maintained the right to set minimum rates on most trades.[17] Haack's speech opened a dialogue on the commission fee structure, but the internal advocates of negotiated rates were still in the minority at the NYSE. When Haack retired in the summer of 1972, the principle of fixed rates remained intact. Yet Haack had dealt a major blow to the legitimacy of the practice. Moreover, the fact that the NYSE President opposed fixed rates encouraged the SEC and Justice Department to keep pursuing the issue. Fixed rates did not collapse while Haack led the NYSE, but they would fall soon after his departure.

Mayday Approaches

Increasingly impatient, SEC officials in September 1973 demanded that fixed commission rates be eliminated, and this time, they gave a deadline: May 1, 1975. Adding weight to that mandate, Congress included in the 1975 amendments to the Securities Act a provision requiring the NYSE to eliminate fixed commission rates, again by the May 1 deadline. As the NYSE Board of Governors realized, it was almost impossible to challenge Congress on the rate issue-the only way to do so would be on Constitutional grounds, and that was highly unlikely to work.[18] The time had come to unfix rates.

Morgan Stanley chairman Robert Baldwin, a former Navy lieutenant, ominously labeled the coming deregulation as Mayday—the international distress call. As the deadline grew closer, another broker elaborated on the Mayday analogy, warning SEC commissioners: "Mayday is a great holiday in Russia…and Russia has said there is no need to fight democracy. It will burn itself out. Well, Commissioners, you have the candle and the matches, and it will be a short fuse."[19] As such warnings reflected, some on Wall Street seemed to fear that without artificially set commission levels, the NYSE could crumble, to the detriment of the entire country. Morgan Stanley's Robert Baldwin, while pessimistic about Mayday, nevertheless was less extreme in his forecast of the results: he predicted that rate deregulation would cause the failure of between 150 to 200 investment banks.[20]

By this point, deregulation was essentially a fait accompli, since the SEC had ordered it. Technically, however, the NYSE Board of Governors needed to endorse the measure to make it official. This required a majority vote among the twenty-one board members. While an early vote had yielded a ten to ten split with one abstention, eventually, in 1975, the NYSE Board of Governors decided to unanimously endorse negotiated rates. The unanimity masked their deep ambivalence about unfixing rates, yet the governors understood that they could not stop deregulation and therefore, for public relations purposes, they decided it would look better if the NYSE seemed to be welcoming the change.[21]

Contrary to fears, Mayday led to no major long-term disruptions of the securities industry. While approximately one hundred investment banks did fail, the lean, efficient firms that survived went on to flourish in the deregulated environment.[22] A decade afterwards, NYSE chairman John J. Phelan hailed Mayday as "the best thing that ever happened for the industry."[23] Indeed, the benefits of rate deregulation were many-among them, tumbling commission fees, a decline in market fragmentation, and the emergence of discount brokerage services like Charles Schwab. In an interview in 1988, Robert Haack looked back on his 1970 speech advocating negotiated commission rates and commented, "it still reads pretty good, if I may make a conceited statement." As President of the NYSE during a troubled time, Haack admitted he "created a few nonfans" with his controversial positions, particularly because of his stance on rates. Yet he concluded, "but I am immodest enough to think I didn't lose any respect in the process."[24] Indeed, in retrospect, rate deregulation helped sharpen the NYSE's competitive edge, and it also restored vitality to the industry as a whole.

The Unforeseen Impact of Mayday 1975: A Rise in Financial Advertising

Another important, but not well-noted, change engendered by rate deregulation was a sharp increase in the amount of advertising conducted by brokerage firms—both discount and full-service. It made sense that in a more competitive environment, with negotiated rates, brokerage houses would now have a greater need to advertise themselves and their new fee structures. Yet the decision whether or not to advertise was not necessarily a rational one. Historically, NYSE members resisted advertising their services, even when the Board, through the Own Your Share marketing campaign, encouraged them to do so. Faced with the decision to advertise or suffer from a dearth of business, many firms had chosen, seemingly against their own interests, the latter.

Impeding the widespread use of financial advertising was a deep-seated bias on Wall Street: since the Exchange's earliest days, self-promotion was widely viewed by members as déclassé, unbefitting gentleman brokers.[25] The securities industry was not alone in this critical assessment of advertising: other professions, especially the medical, legal, and accounting fields, believed advertising was improper, and in the late nineteenth century, they established codes of conduct banning almost all advertising and soliciting. According to the rationale, if a professional rendered high quality services, paid advertising would be unnecessary, as positive word-of-mouth alone would generate sufficient business. Allegedly, only the "charlatans" needed to advertise.

The disapproving attitude toward professional advertising persisted well into the twentieth century, although the NYSE formally removed its ban in the 1940s. Nevertheless, when Charles Merrill, the founder of Merrill Lynch, flaunted tradition and began to advertise to the middle class after World War II, many Exchange members were initially appalled. While the institution of the Own Your Share campaign sanctioned advertising (given that the NYSE Board formally endorsed the program), at the campaign's end in 1967 the majority of NYSE member firms were still not committed to investing significantly in advertising.

How and why, then, did Mayday change this antipathy to marketing? As already noted, brokers now needed to communicate their new rates, but there was another compelling reason why they suddenly became more inclined to act in their own best interests: all professional advertising in the late 1970s became legitimate, in large part due to a critical 1977 Supreme Court decision.

In *Bates v. State Bar of Arizona*, the Court ruled that professional bans on advertising and personal solicitation violated free speech. Forced to reform, professional societies like the American Institute of Certified Public Accountants immediately relaxed their rules regarding member promotions.[26] Perhaps more than revisions in rules and laws was an accompanying revision in attitudes; advertising increasingly became perceived as an acceptable professional practice, not as a sign of weakness or guile.

Therefore, as the first discount brokerage firms began to emerge in the mid 1970s, the environment was especially conducive for advertising and marketing. Just a few years earlier, former NYSE President Robert Haack had endured much criticism for terminating the Own Your Share campaign. Yet, ironically, by encouraging rate deregulation, Haack unwittingly inspired a whole new age of financial advertising.

For ethical reasons, Haack came to embrace negotiated rates. Personally, he had nothing to gain by siding with the SEC and Justice Department in the controversy, but he genuinely believed that competitive rates would improve the character of Wall Street. While the unfixing of rates did remove many of the problems then besotting the NYSE, the question arises as to whether the rise in financial advertising inspired by Mayday did not generate a new host of ethical problems in the form of disingenuous advertising.

After 1975, did the quality of advertising deteriorate as the quantity increased? As Attorney General Eliot Spitzer and other critics have noted, many recent financial advertisements have glamorized the stock market and exaggerated the upside potential of equity investing. For instance, airing in 1999, at the height of the "dot.com bubble," a television commercial sponsored by Morgan Stanley's Discover Brokerage unit featured a fictitious tow truck driver named Al, whose tremendous profits purportedly allowed him to purchase his own tropical island.[27] SEC chairman Arthur Levitt lambasted Discover Brokerage for this allegedly irresponsible advertisement, and also reprimanded the NASD and the NYSE for tolerating firms making such exaggerated claims.

While such reprimands were justified in some respects, internal regulators in recent years have not been entirely negligent in patrolling member advertisements. For example, in the past decade, many brokerage firms have incurred fines for issuing misleading advertising. However, some may argue that regulators should be chastised for not making the amount of the fines sufficiently substantial to serve as a major deterrent. For instance, for one improper advertisement, E*trade was fined only $90,000—hardly a major punishment given the company's revenue of $2.5 billion.[28] If an unethical advertisement generates significant business for a firm, some brokers may conclude it is worth enduring the risk of a small fine.

Of course, some brokerage firms do make ethically-sound decisions on their advertisements and they seem to have been rewarded by the market for doing so. One of the earliest entrants into the new field of discount brokerage services, Charles Schwab Corporation is today the most successful and largest discount firm in the world. In the United States alone, Schwab serves an estimated 7.5 million clients.[29] In no small part, the success of Schwab was due to the company's consistent and early adoption of quality advertising and promotional activities. Embracing advertising with phenomenal returns, Charles Schwab in the 1970s followed the path blazoned by Charles Merrill in the 1950s. Like Merrill, Schwab is careful to highlight in its advertisements the risks of investing, not just the rewards. Therefore, the ethical character of Schwab's past and present promotions has tended to be high.

Trying to challenge Schwab's supremacy, many new players have entered the discount brokerage field. The emergence of these additional players helps account for the poor quality of some advertisements. The more competition, the more some brokers feel they need to advertise aggressively (and perhaps unethically) in order to garner business. Desperate to compete in a glutted market, many brokerage firms also have further deepened their commission rates. Some companies offer trades as low as $9.95—an amount hard to imagine in 1975. Yet the staggering volume of trades in recent years, combined with rapid advances in technology, have enabled firms to offer such low rates. Taking advantage of the cheaper transaction fees, many investors have increased their trading activity. While it is good that investors can make less costly trades and can "shop around" for the best bargain, it is unclear whether the increased trading itself is a positive development. Before Mayday 1975, more investors maintained a "buy and hold" strategy, whereas today, a more short-term investing attitude has gained strength.

Conclusion

As suggested, the impact of Mayday 1975 has been mixed and far-flung. Certainly, in the new era of monumental institutional investing, the continuation of fixed rates was untenable. President Haack, though a pariah in many Wall Street circles for making his bombshell speech, was nonetheless right to collaborate with the SEC and the Justice Department to implement negotiated rates. The subsequent rise of discount brokerage firms and the accompanying increase in advertising helped spread shareownership to the masses. However, with the rise of popular investing indirectly, through institutions, and directly, by individuals, comes an increased duty for brokers to advertise responsibly. Professional marketers like Charles Schwab will reap the benefits of taking the ethical high road in their promotional efforts. In contrast, other brokers who embark upon an ethically questionable advertising path perhaps may incur higher profits in the short term, but will not be able to sustain their reputations or their profitability in the long term.

In his controversial 1970 speech, Haack had warned of the necessity of discarding "archaic and anachronistic practices and procedures."[30] While he was referring to the fixed rate commission structure, his words could apply equally well to unethical advertising practices. Those firms that wish to survive and flourish in the highly competitive modern brokerage industry must learn to embrace high-quality advertising that emphasizes the risks and not just the rewards of investing.

In conclusion, in fomenting change on a variety of fronts, Mayday 1975 indeed constituted a revolution. Explaining the origin of that revolution, scholars Marshall Blume, Jerry Siegel, and Dan Rottenburg have argued that "outside forces had compelled the New York Stock Exchange to adopt a fundamental change."[31] Yet, as we have seen, certain internal forces at the NYSE also supported rate reform. While it is likely that rate deregulation eventually would have occurred even without the support of minority Exchange members like Robert Haack, it is nonetheless significant that in a time of crisis on Wall Street, some NYSE leaders were willing to issue their own mayday and openly admit that the NYSE needed help revising and updating at least one of the organization's ancient practices. In multiple ways, the Mayday Revolution made the once "private club" of the NYSE more of a public institution, and, in this regard, the effects of Mayday still reverberate.

NOTES

1. The principle of fixed commission rates is contained in the 1792 Buttonwood Agreement that led to the founding of what would become the precursor to the New York Stock Exchange. In the Buttonwood Agreement, twenty-four brokers pledged: "we will not buy or sell from this date for any person whatsoever any kind of public stocks at a less rate than one-quarter of one percent commission on the specie value..." Buttonwood Agreement, NYSE Archive.
2. A good overview of the events leading to Mayday 1975 is provided by Marshall E. Blume, Jeremy Siegel, and Dan Rottenburg in *Revolution on Wall Street: The Rise and Decline of the NYSE* (New York: W.W. Norton and Company, 1993), 14-17, 23-24, 50-52, 68, 107-109, 115, 128-142, 161-163.
3. The 1965 recommendation was one of many conclusions of the SEC's Special Study of the Securities Market, which commenced in 1963.
4. "Big Board Formally Names Robert Haack President; He Will Take Office by Fall," *Wall Street Journal,* April 26, 1967, 5: John H. Allen, "Has Big Board Found Its Man," *The New York Times,* April 22, 1967 37, 47: Lee Silberman, "Haack, NASD Head, Held a Top Candidate to Succeed Funston as Big Board President," *Wall Street Journal,* April 20, 1967, 2.

5. For a solid summary of Haack's early defense of fixed rates, see Eileen Shanahan, "Commission System is Defended," *The New York Times*, August 20, 1968, 51, 53.
6. For statistics concerning individual versus institutional investing levels, see Blume, 107. Leading to the dramatic rise of institutional investing was the liberalization of prudent-man investing laws in the late 1940s, which allowed institutions (like mutual funds) to invest in stocks, not just bonds.
7. Jan Nugent, "U.S. Official Warns Brokers on Fixed Fees," *Washington Post*, October 30, 1969, A1-A2.
8. Haack quoted in Shanahan, "Commission System is Defended," 51, 53: Also see Paul G. Edwards, "NYSE Voices Strong Dissent to Negotiated Fee Proposal," *Washington Post*, August 20, 1968, C6.
9. Terry Robards, "Why Haack Spoke Out," *The New York Times*, November 22, 1970, B1.
10. Robert Haack, "Competition and the Future of the NYSE," November 17, 1970, Box 10, Folder 16, NYSE Archive.
11. Blume, Siegel, and Rottenburg estimate that "by the late 1960s the third market alone attracted 12 percent of institutional trading volume in Exchange-listed stocks," 115.
12. Robert Haack, "Competition and the Future of the NYSE."
13. Livid, Lasker actually tried (but failed) to persuade the NYSE to sue Haack for improperly using the organization's resources to write and disseminate a private speech unapproved by the Board. He told the *The New York Times*, "the policy of the NYSE is made by this board of governors and not by the president," quoted in Robards, November 22, 1970, B1.
14. Robert Haack, "A New Commission Structure: Crucial Need for the 1970s," 21 November 1969, Box 10, Folder 13, NYSE Archive.
15. Quoted in Terry Robards, "Haack: Can the N.Y.S.E. Survive," December 12, 1971, F1.
16. Robards, November 22, 1970, B9.
17. The vote was 575 for to 334 against, with 437 abstentions. Blume, 136.
18. Blume, 140.
19. Quoted in Blume, 140.
20. Blume, 141.
21. Blume, 141.
22. Blume, 141.
23. Phelan quoted in Blume, 142.
24. "Robert Haack," ed. Clem Morgello, in *The Way It Was: An Oral History of Finance: 1967-1987* (New York: William Morrow, 1988), 287-289.
25. The NYSE association in 1898 banned most forms of advertising by member firms, and the ban was dismantled only slowly, beginning after World War II. Likewise, the American Institute of Certified Public Accountants (the AICPA), founded in 1887, also banned almost all advertising and soliciting. Not until the late 1970s was the AICPA rule substantially relaxed.
26. *Bates v. State Bar of Arizona*, 433 US 350, (1977); Also see J.R. Darling and D.W. Hackett, "The Advertising of Fees and Services: A Study of Contrasts between, and Similarities among, Professional Groups," *Journal of Advertising* 7 (1978): 23. Also see Thomas Allen, "Fee Changes Will Prompt More Broker Ads," *Advertising Age*, 45 no.

50 (December 16, 1974): 4.

27. Hal Lux, "Keeping On-Line Ads In Line," Institutional Investor, 333, no. 6 (June 1999): 29. Also see K. Kranhold, and S. Vranica, Amid Heavy Dot-Com Spending on Ads, "Saw the Good, the Bad, the Bizarre," *Wall Street Journal* (Eastern Edition), December 31, 1999, B4.
28. Susan Willetts, "E*Trade Is Fined $90,000 in Alleged Ad-Rule Violation," *Wall Street Journal (Eastern Edition)*, July 10, 2001, C7.
29. "A chat with Charles Schwab," http://www.usnews.com/usnews/biztech/articles/041031/31schwab_3.htm.
30. Robert Haack, "Competition and the Future of the NYSE."
31. Blume, 140.