



**Business Issues Policy and Procedure Standards (BIPPS)
Derived Data and Non-display Usage
Draft Version 1.0 - July 26, 2006**

Introduction:

A critical issue for content providers, data distributors, and data consumers is the policy treatment for non-display applications and to create derived data products that use content provider information. The BIPPS Working Group has created these definitions and White Paper analysis to assist the market data industry in addressing the issues associated with these types of usage.

The definitions of relevant terms represent the consensus thinking of the BIPPS Working Group. In contrast, it was apparent that the group would not be able to reach a ready consensus in several of the policy areas related to Derived Data and Non-display usage. The White Paper lays out the alternative points of view on these areas to help distributors and consumers understand the issues in question and inform content providers' policy making. Rather than trying to pick a "winner", this document seeks to lay out the contrasting points-of-view.

This document is not intended to be the final word on this topic. The BIPPS Working Group encourages FISD members from all segments of the industry to review this document and provide feedback. Through this feedback and subsequent industry discussion, the working group hopes to identify approaches that benefit the entire industry.

Definition of Relevant Terms:

"Subscriber" is an entity that receives market data and uses or consumes it.

"End-user" is a natural person that a Subscriber permits to receive data from a Content Provider.

"Conventional market data usage" is access by an End-user to market data through a display device or devices that are generally dedicated to that user during the period which he/she is accessing the data.

"Distributor" is any organization that distributes market data to End-users or other Distributors. Market Data Distributors include both organizations that distribute data externally (i.e., vendors) and those that distribute data internally.

"Content Provider" is any organization that creates financial information content that can be redistributed. Examples include, but are not limited to, exchanges, news wires, analysis services, and credit ratings agencies.

"Information" the data that is disseminated by the Content Provider

"Non-Display Usage" is access, processing, or consumption of the Information for a purpose other than in support its display or distribution.



"Derived Data" consists of pricing data or other information that is created in whole or in part from the Information and that cannot be (1) reverse-engineered to recreate the Information or (2) used to create other data that is a reasonable facsimile for the Information.

"Recipient" is any organization that receives the Information and has the ability to redistribute or transform the information. Recipients include both (1) market data vendors and Subscribers with direct distribution agreements with Content Providers and (2) Subscribers that do not have direct distribution agreements with Content Providers.

BIPPS White Paper – Derived Data and Non-display Usage – Version 1.0

Discussion Applying to Derived Data and Non-display Usage:

	Issue	Point	Counter-point
1	Policies for data of different levels of timeliness	It is appropriate for Content Providers to have different policies or commercial approaches for data of different levels of timeliness (i.e., real-time vs. delayed vs. End-of-Day). Such policy differences could reflect the value differences among the different types of data.	Each Content Provider is encouraged to have the same policy and commercial approach to all types of data regardless of its timeliness.
2	Consistent and transparent policy interpretation by Content Providers	<p>Content Providers should be consistent and transparent in the judgments that they make regarding whether a particular type of data transformation creates Derived Data and any policy interpretations related to Non-display usage.</p> <p>Whenever a Content Provider makes a determination that a particular type of data transformation is (or is not) Derived Data or any policy interpretations related to Non-display usage, it should make this interpretation public through its website and other policy communications without divulging any proprietary information about a particular Recipient.</p>	Content Providers have confidentiality terms in their subscriber and vendor contracts that may not permit them to share all the details regarding any interpretation made regarding a particular aspect of usage that falls outside the basic contractual definition.

	Issue	Point	Counter-point
3	Direct contractual relationships between Content Providers and user firms	Content Providers that have policies for Derived Data and/or Non-display Usage, especially if those policies require judgment calls by the Content Provider, should implement direct contractual relationships with the user firms who are creating the Derived Data or making Non-display Use of their Information. It is impractical to expect intermediaries, like vendors, to apply Content Providers' policies in scores of diverse usage situations.	It is not practical for some Content Providers to maintain hundreds (thousands?) of additional contractual and commercial relationships that the administration of direct contractual relationships would entail.

Discussion Applying to Derived Data:

	Issue	Point	Counter-point
1	Ownership of Derived Data	The Recipient that creates the Derived Data although the Content Provider may require the Recipient to license the use of underlying Information to create the Derived Data.	The Content Provider that distributed the original Information.
2	Contractual Requirements on downstream recipients of Derived Data	Recipients that create Derived Data from a Content Provider's Information should not be required to administer additional Content Provider-required Subscriber Agreements with the downstream recipients to whom they provide the Derived Data.	Content Providers need to be protected for all distribution of the data, including Derived Data based on their Information. If a Recipient does not wish to administer a Content Provider-required agreement with its Subscribers to the Derived Data, the Recipient should provide indemnification to the Content Provider.



Discussion Applying to Non-display Data:

	Issue	Point	Counter-point
1	Pre-approval of new Non-display uses of the Information	The Recipient should be approved once to make non-display use of the Information. Recipients should be able to make additional new Non-display uses of the Information without explicit pre-approval by the Content Provider.	Content Providers must approve each system utilizing market data and its functionality.
2	Identification and control of Recipient's internal systems and applications using the Information	<p>It should be sufficient that the Recipient can control internal display and any direct external access to the Information.</p> <p>It is unrealistic to expect the Recipient to identify and control all internal systems and functions that have access to the Information but do not display or redistribute it. It puts too much burden on the Recipient to monitor all of the proprietary black box applications that are running within its system.</p>	The Recipient must be able to identify and control all systems and functions that have access to the Information.
3	Burden of Analysis and Interpretation	<p>Content Providers' business models should require minimal analysis and interpretation by Content Providers, Recipients, and/or Subscribers to determine how a Content Provider's policies apply to their use/application of data in other than the actual content/format it provides.</p> <p>For legal and competitive reasons, financial institutions are often unable to share descriptive information regarding their non-display usage of data in proprietary "black-box" applications.</p>	The Content Provider must have enough descriptive information regarding the product to apply its policies and determine whether the product is defined as derived, non-display, historic, etc.



4	<p>Policies based on technical configuration and capabilities</p>	<p>Content Provider policies should not be tied to a Recipient's technical configuration and capabilities (e.g., number or size of processors, bandwidth requirements, number of "programs" using the Information).</p> <p>Such policies cannot adapt quickly to changes in technology. They encourage Recipients to circumvent the policies by modifying their technical configurations, leading to lose-lose situations: wasted effort by Recipient and no additional revenue for Content Provider.</p>	<p>Content Provider need to be able to create pricing policies that have a tangible basis and can be consistently applied.</p>
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