

**CFTC Public Hearing to Consider the Trading of
Contracts Based on Motion Picture Box Office Receipts**

May 19, 2010

Response to Question for the Record

The Trend Exchange, Inc., also known as Media Derivatives, Inc. (“MDEX”), appreciates the opportunity to respond to the question raised by Commissioner Bart Chilton. Commissioner Bart Chilton posed the following question:

How does the FCC decision granting studios selective output control allowing them (studios) to transmit a film into the home at the same time it opens in theaters, or shortly thereafter, affect our (MDEX) ability to prevent manipulation by parties with knowledge of the video on demand release window?

MDEX does not believe that the FCC’s decision to allow studios to transmit film into homes at or near the same time as the opening box office weekend release would adversely impact either MDEX’s or the CFTC’s ability to monitor for potential manipulation by parties with knowledge of the video on demand (“VOD”) release window.

The motion picture industry, like most industries, is under near-constant pressure to improve its product offerings and distribution channels in the effort to increase the value of industry products. As an example, the VOD at initial release concept represents one significant change occurring in the entertainment industry, which seeks to satisfy consumer demand for more content in a more timely and convenient fashion.

As a general matter, companies seek to change their actions and behaviors to implement new business decisions. These actions often include the creation of new products and new risk management techniques, which may include the use of futures or OTC derivatives. Such decisions are often made and implemented without public knowledge. By way of example, if a commercial soybean processor were to enter into new foreign delivery obligations with respect to its cash soybean crops, the processor would likely enter into corollary hedge transactions. No outside party is initially aware of the transaction, nor would they generally be entitled to such information. The hedging activity is normal and would not be deemed to be an attempt to manipulate the market.

The introduction of a new movie distribution channel—VOD at initial release—for the studios is very similar to the processor example described above, but with one important

difference—the VOD will likely be heavily *advertised and promoted* by the channel outlet and the studio in advance of the movie release. Thus, the transactional knowledge is in the public domain, whereas in the processor example, the transaction is not publicly disclosed. Once the first few release-date-VOD-movies occur and the results are analyzed—that is, the impact on box office receipts—the market place will begin to anticipate the impact of a VOD on the box office receipts. MDEX believes that VOD at a movie’s initial release will not have any impact on its or the CFTC’s regulatory procedures or ability to monitor for possible manipulation issues as the activity may become a standard practice and will be in the public domain.

MDEX further believes that VOD at initial release creates an even greater need and justification for motion picture box office release futures products. Expanding the studios’ distribution channels at release significantly increases the risk to the theaters. In addition to being concerned about the quality of a film and the over or under screen allocation for a movie, the theaters now must measure the impact on attendance by patrons electing to view the movie in the comfort of their homes with friends.

The revised distribution windows may define new business models for major motion pictures. Additional futures products may be needed to provide appropriate risk mitigation for studios, distributors and parties with direct and indirect financial exposure to one or more distribution channels. As Michael Burns of Lionsgate Entertainment stated at the hearing, each movie is an individual business: the movie has a life cycle, is capital intensive and generates revenue from various sources. Most importantly, there are extensive participants who are affected. The greater the degree of transparency into the box office, the greater the opportunity for fair treatment to all the participants.

We thank you for the opportunity to respond to this question.