

Testimony of

The Honorable Orrin Hatch

July 22, 2003

Statement of Chairman Orrin G. Hatch

Before the United States Senate Committee on the Judiciary

Hearing on

AThe WorldCom Case:

Looking at Bankruptcy and Competition Issues"

Good afternoon and welcome to today's hearing entitled "The WorldCom Case: Looking at Bankruptcy and Competition Issues."

I first would like to thank all of our witnesses today for their time and cooperation. I hope that this hearing will help us better understand the WorldCom situation and its potential public policy implications.

Along with many Americans, I am deeply concerned about the devastation caused by WorldCom's massive corporate fraud, which has caused immeasurable harm to so many. While we can't go back in time and undo what has already occurred, we are presented today with an opportunity. We have an opportunity to examine the WorldCom case and determine whether there are lessons to be learned with respect to our public policy going forward.

The focus of today's hearing will be two-pronged. First, we will examine the WorldCom bankruptcy case and consider, in light of the facts, whether any changes in our current bankruptcy laws may be in order. Second, we will assess the implications of a reorganized MCI emerging from bankruptcy on competition in the telecommunications market. Here again, we will evaluate what impact, if any, this anticipated competitive landscape should have on public policy.

Some have raised fairness concerns that WorldCom will be able to emerge from bankruptcy with much of the fruits of its widespread fraudulent conduct intact. They argue that it will emerge from Chapter 11 with an enhanced market position relative to its competitors, giving it not only a fresh start but a head start. They believe that, in view of the WorldCom case, our bankruptcy system is set up to make crime pay.

Others contend that the MCI which will emerge from bankruptcy is a new entity with new leadership. They point to the extraordinary measures it has taken to prevent the recurrence of past misdeeds. They further argue that MCI will not have a meaningful competitive advantage from its Chapter 11 reorganization. And, they argue that our bankruptcy laws appropriately are not designed to punish, but rather to permit a company to reorganize and emerge from bankruptcy as a viable entity.

As we move forward, I believe we need to have a full understanding of the WorldCom case to help us determine whether our bankruptcy laws are functioning fairly and effectively. We also need to understand the WorldCom case in order to conclude whether our policies are sufficient to enable the telecom industry to enjoy robust competition under fair terms that benefits consumers. No doubt, this is a complex case containing important issues deserving of examination.

We are fortunate to have highly respected individuals here today to testify on these important matters.

We will first hear from former Attorney General Richard Thornburgh, who is the Bankruptcy Examiner in the case. We are fortunate to have you with us and look forward to your testimony.

On our second panel, we are honored to hear from: former Attorney General William Barr, the Executive Vice President and General Counsel of Verizon Communications; former Attorney General Nicholas Katzenbach, who serves on the Board of directors of MCI Telecommunications; Marcia Goldstein of the law firm Weil Gotshal; Douglas Baird, Vice Chair of the National Bankruptcy Conference; and Mark Neporent, the Chief Operating Officer of Cerberus Capital Management.

I appreciate all of you appearing today, and look forward to your testimony.

###