

Testimony of

# **The Honorable Patrick Leahy**

July 22, 2003

Statement of Senator Patrick Leahy  
Senate Committee on the Judiciary  
Hearing on WorldCom Bankruptcy  
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Like most Americans, I was outraged by the actions taken by WorldCom's top executives, by their fraud, and by their attempts to escape responsibility for their misdeeds. If reports are to be believed, the executives at WorldCom took steps that were deceptive, unethical and illegal.

I vigorously supported Sarbanes-Oxley, the most sweeping corporate reform legislation in decades, precisely because of the need to confront corporate fraud, like the debacle that has since been presented by WorldCom. Working with Senator McCain and other Senators, I sponsored many of the criminal and corporate accountability provisions in the new law, including strong new criminal penalties for securities fraud and for failure to comply with new document retention requirements. In addition, I worked on provisions for corporate whistleblowers who alert us to this kind of fraud. I was honored to serve on the House-Senate conference committee.

In terms of sheer dollar amounts, WorldCom may have perpetuated one of the largest corporate frauds in American history. WorldCom issued financial reports that grossly exaggerated its income by more than \$11 billion and its balance sheet by more than \$75 million. In doing this, WorldCom left its employees without a secure retirement. It also took out enormous loans that could not be repaid, and in its failure, WorldCom threw the telecommunications industry into disarray.

When WorldCom's fraud came to light, its creditors lost an estimated \$200 billion in debt and equity. That is three times the size of the Enron losses. In addition, at least 22 States lost more than \$2.6 billion in public retirement funds. In Vermont, WorldCom's fraudulent actions reduced the State pension fund by \$9 million. WorldCom's fraud hit its own employees particularly hard. More than 22,000 employees lost their jobs and incomes for their families. WorldCom's actions solidified a downward spiral in the telecommunications sector, resulting in significant job losses and bankruptcies across the industry and reduction in competitive alternatives for consumers.

In addition to the private, civil remedies being sought against WorldCom, the federal government has responded on many levels. The Securities and Exchange Commission and the Department of Justice have launched investigations. WorldCom has agreed to pay a \$750 million penalty to the SEC and to comply with corporate governance and internal controls. WorldCom executives are under indictment, and some have pleaded guilty to criminal charges. The General Services Administration is reviewing WorldCom's fitness to hold government contracts, and the Internal

Revenue Service is reviewing the propriety of its claims to certain tax deductions and for refunds.

By the same token, our purpose as WorldCom goes forward and emerges from bankruptcy proceedings should be the same here as it is in other bankruptcies: to divide assets fairly, and, if possible, create an entity that will be able to compete and create jobs in the future. Unless there is some reason to believe that the bankruptcy code is not sufficient to respond to the failure of WorldCom, then the bankruptcy should proceed in the ordinary course. Our bankruptcy laws are intended to attempt to achieve fairness through a structured division of a debtor's assets, and our bankruptcy laws can also allow companies to restructure and return to business. In this way, the bankruptcy code attempts to prevent the situation in which a company that is capable of holding its own is driven out of business. I would like to see competition in the telecommunications industry be both fair and spirited.

I understand that there are significant concerns about the competitive landscape as WorldCom emerges from bankruptcy. As a result of the bankruptcy proceeding, WorldCom may have less debt than some of its competitors. Lowered debt ratios are a serious concern and one that bankruptcy courts handle frequently. If, as we move forward, there is some reason to believe the bankruptcy system is breaking down, we are ready to step in and take appropriate action. Similarly, if the actions taken by the DOJ, the SEC, the IRS, and the GSA are inadequate to the challenges presented in this uniquely troubling situation, we should do whatever is necessary to help those agencies chart the right course.

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