

## **WorldCom Phoenix: Is Bankruptcy a Tool for Competitive Advantage?**

### **Introductory Remarks by Joshua Rosenberg, NMRC Director**

Good Morning. I'm Josh Rosenberg, director of the New Millennium Research Council. I'd like to welcome you to today's NMRC panel discussion: "A WorldCom Phoenix: Is Bankruptcy a Tool for Competitive Advantage?"

We have an esteemed and diverse group of panelists with us today: including a prominent bankruptcy attorney, a senior telecom analyst, an industry CEO, and a law professor.

For those of you who are not familiar with the NMRC, the New Millennium Research Council is a modern day think tank. We are comprised of a network of diverse policy experts who seek real-world solutions to the issues and challenges confronting policymakers today- and, more importantly, as today's event will demonstrate, we seek to address those policy issues that are approaching on the horizon.

While so much has already been written and said about the WorldCom case, today's panel will take a unique approach. We will **not** be hearing about Bernie Ebbers, Scott Sullivan or the latest guilty plea, nor will be talking about corporate accountability per se.

Rather, today's discussion will look further into the future and examine this case in terms of the role of bankruptcy policy. Should WorldCom be allowed to come back under Chapter 11? What are the implications for the telecom industry if it does? And as our discussion is entitled, is bankruptcy *really* a tool for competitive advantage?

It seems like we have been bombarded with WorldCom news for so long now, but let me give you a quick run down of some key events just since April:

- At the end of that month, WorldCom CEO Bernie Ebbers resigned as WC stock slumped and the SEC looked into his hundreds of millions of personal loans.
- Worldcom's long term debt rating fell to junk status
- The Company fired its CFO for improper accounting of \$3.8 Billion in expenses
- At the same time, Worldcom cut 17,000 jobs (20% of its workforce)
- By June, Worldcom had reached official scandal status, as the SEC, DOJ and Congress investigated the shredding of documents among other improprieties.
- And by the end of July, WorldCom filed for Chapter 11 protection under the US bankruptcy code.
- Finally, just last week Worldcom announced that it may have uncovered additional accounting errors to the tune of \$3 billion more. (That's in addition to the \$7 billion or so already disclosed).

As they say in those weight loss infomercials on television, “What a difference just a few months can make!”

In addressing the question of the day, “Is bankruptcy a tool for competitive advantage?” today’s panelists may consider related issues such as:

- When should a company have to file for Chapter 7 liquidation vs. Chapter 11 reorganization?
- What about the differences between corporate bankruptcy and individual bankruptcy? Should corporate debtors pay criminal fines and restitution like their individual counterparts?
- What separates a few bad apples from a bad company?
- Also, is telecom a special case? In other words, does it matter that the telecommunications industry is in a serious downturn or that many of WorldCom’s creditors also happen to be its competitors?
- The Wall Street Journal recently ran a piece on how a number of restructurings in the telecom industry may contribute to the world-wide capacity glut that has contributed to the industry’s collapse. How does the WorldCom case fit this scenario?
- Finally, Will a WorldCom’s rebirth perpetuate Chapter 11 filings by other major telecom companies?

Our purpose today is not just to answer these questions; it is also to seek remedies to the bankruptcy policy challenges as the WorldCom crisis enters its next phase.

Let me now introduce today’s moderator.

David Lachmann is currently Minority Professional Staff with the House Judiciary Committee, a position he has held since August of 1998. He is also one of the lead Democratic staff on pending omnibus bankruptcy legislation. In addition, David spent four years with the Subcommittee on Commercial and Administrative Law, the jurisdiction of which includes the Bankruptcy Code, the bankruptcy courts and judges, administrative law, the Independent Counsel statute, interstate compacts, and state taxation affecting interstate commerce.

Prior to joining the Committee, David served as Legislative Director to U.S. Representative Jerrold Nadler of NY, beginning in January 1993 when Rep. Nadler took office.