June 27, 2003

An Online Newsletter of Discovery Institute

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Faced with the largest financial fraud in history, what should the feds do? Like Godzilla risen anew from the depths, WorldCom – soon be to rechristened MCI – is poised to emerge from bankruptcy blessed by the federal government. It has chosen to advertise its new moniker with an ad that has a voice-over by actor Kiefer Sutherland, who oddly enough plays the voice of the villain in the Hollywood release "Phone Booth." In the film Sutherland tells star Colin Farrell, who has just answered a ringing public phone, "If you hang up, I WILL kill you."[1]

On May 19, 2003 the Securities and Exchange Commission (SEC) entered into a consent agreement providing for a $1.51 billion civil penalty, with WorldCom's actual final payment to be $500 million; WorldCom acknowledged therein approximately $9 billion in financial fraud.[2] Some reports peg WorldCom's total fraud at $11 billion.[3] In its own settlement filing with the SEC the company agreed that it "shall not seek or accept, directly or indirectly, reimbursement or indemnification…with respect to any penalty amounts that WorldCom shall pay pursuant to the Final Penalty Judgment, regardless of…Section (308(a) of the Sarbanes-Oxley Act of 2002."[4]

The settlement is subject to review by both the bankruptcy court and a federal district court. The district court judge issued an order the same day seeking four categories of additional information for the record: (1) details of defendant's fraud; (2) what changes in corporate governance and internal control have been made; (3) implications of Sarbanes-Oxley for the settlement; (4) information not only as to who benefits from the settlement, but also as to those who do not, and the rationales underlying the agreement.[5] The district court further stated that "the Court and the public need to know much more of the details of the defendant's seemingly massive fraud."[6]

Investors victimized by the company's fraud will, under a proposed court settlement, receive an unprecedented penalty sum, but only 33.1 percent on the dollar of the nominal amount awarded. Under 2002's Sarbanes-Oxley legislation, investors stand as unsecured creditors in bankruptcy priority; only Wall Street firms have paid out larger amounts.[7] If all $500 million were paid WorldCom's defrauded shareholders, they would receive 17 cents for shares once worth some $60—a write-off of 99.7 percent of peak shareholder value, which at 3 billion shares outstanding was $180 billion. At $500 million the award is fifty times the previous record award ($10 million to Xerox shareholders), but a minute fraction of the harm done. WorldCom, showing brass if nothing else, has asked the federal government to grant it a tax loss carry-forward for the billions it is writing off, which if granted could yield five years worth of revenues tax-free.[8]

Resurrection or Rest in Peace?

One would think that a federal government resolute in punishing the slightest Bell company transgression would look sufficiently askance at WorldCom's epic, all-time record financial fraud (and resulting $79.8 billion write-down) to preside over the orderly liquidation of the firm. In a long-distance industry glut, parceling out customers to surviving companies would be a simple matter. Guess again: WorldCom is poised to emerge from Chapter 11 proceedings with $36 billion of its $41 billion debt wiped out by bankruptcy. WorldCom bondholders will get 36 cents on the dollar for their bonds; MCI creditors, 80 cents on their debt; and data-subsidiary Intermedia creditors, 94 cents on the dollar. WorldCom has retained its top 200 customers during the bankruptcy process, albeit having lost market share in the mid-size business segment. Estimates place WorldCom's new post-bankruptcy stock valuation at $12 billion.[9]

The SEC apparently chose the penalty figure with an eye to keeping the company in business, post-reorganization. SBC Communications issued

a statement calling the settlement a "pittance", adding: "We're disappointed that a company that can instigate this much trouble gets away with a slap on the wrist as a cost of doing business."[10]

A succinct description of what the government plans to do comes from Verizon General Counsel (and ex-Attorney-General) William Barr: "Bankruptcy was designed to forgive stupidity, not reward criminality."[11] Instead, Barr and others propose that WorldCom be liquidated under Chapter 7 of the Bankruptcy Code, which would dissolve the enterprise and distribute assets among creditors.

Verizon is actively seeking liquidation of what it terms a "criminal enterprise"—over the opposition of 90 percent of WorldCom's creditors. Four states—Oklahoma, Alabama, Massachusetts and West Virginia—have filed in federal court as well, seeking priority for their criminal fraud claims over civil debts, and alleging inadequate disclosure. AT&T has also filed in favor of more disclosure.[12]

Verizon's position is that bankruptcy reorganization should not apply when the bankrupt's assets are derived from committing crimes. Verizon General Counsel Barr says: "Bankruptcy is not a mechanism for laundering stolen goods. It doesn't provide a safe harbor for proceeds of a crime. So the fundamental difference between companies like the airlines and the steel industry and WorldCom/MCI is that the latter is responsible for the largest corporate fraud in American history, and clearly a substantial part of its business is the fruit of its fraud."[13] In contrast to bankruptcy, liquidation prevents the company from realizing an artificially lower-cost position that will unfairly harm its competitors (including Verizon); the value differential can be significant in capital-intensive network industries.

WorldCom/MCI's counter-position asserts that the assets were built up in legitimate enterprises over decades (MCI, UUNet, WorldCom), and that the sins were those of select management employees no longer with the company. The firm also argues that the victims of the fraud—the creditors—support re-emergence.

The Plot Thickens: A Tale of Two Reports

On June 9, two reports were released concerning WorldCom's fraud and its future. One, by a special investigative committee commissioned by WorldCom's board—albeit one whose members had no prior connection with WorldCom—concludes that the firm's crimes are past history and endorses continuance of the firm after emergence from Chapter 11.[14] The other, by Bankruptcy Court Examiner Richard Thornburgh, concludes that resignations of a few top executives cannot erase the culture at WorldCom, and that further wrongdoing is likely to be uncovered; the examiner will submit another report later in the year.[15] This last fact alone means that the fate of WorldCom will be held in abeyance into the fall.

A detailed recitation of the contents and conclusions of the two reports is (a) beyond the scope of this writing and (b) would put all readers to sleep in seconds. A few observations should shed light on WorldCom's situation and prospects. In brief, the court's report will likely have greater impact.

The report commissioned by the WorldCom board draws several key conclusions as to the company's fraud: (1) it did not involve the firm's network, technology or engineering; (2) it was primarily the doing of CEO Bernard Ebbers—"the source of the culture, as well as much of the pressure, that gave birth to this fraud"[16]; (3) with departure of disgraced executives and adoption of new accounting and corporate governance practices, the firm is clean, and thus prepared to emerge from Chapter 11 as a new company untainted by past wrongs.[17]

The report notes that to avoid duplication with other investigators, it focused on certain areas of accounting fraud only, plus corporate loans to the CEO. Issues pertaining to plant, equipment, other long-term assets, depreciation taxes, goodwill, etc. are not addressed. The report leaves to the bankruptcy court examiner issues of influence on Wall Street analysts, IPO matters and merger and acquisition matters.[18] One conclusion, that all employees associated with possible wrongdoing had left the firm, has already been contradicted with the departure of MCI's treasurer and top legal counsel, based upon findings by the examiner.[19]

According to the special investigative committee, WorldCom's accounting fraud totaled $9.25 billion, with another $1.107 billion in questionable items (hence the reported possible $11 billion figure above), covering the years 1999 - 2002. The vast bulk, some 80 percent, represented fraudulent reductions in line costs (those associated with carrying calls end-to-end), with the remainder divided evenly between overstated revenues and understated miscellaneous expenses.[20]

The report describes WorldCom's culture:

> In sum, WorldCom was a company driven overwhelmingly by a perceived need to meet unrealistic securities market expectations that its own executives had fostered, without an institutional culture in which integrity was valued, without the benefits of policies and procedures covering important matters of governance, and without the effective oversight of an active and engaged Board of Directors. It was headed by a Chief Executive Officer with a dominant personality, who was able to act largely unchecked. The Chief Financial Officer—himself a strong figure—could direct employees to take action they knew or believed was improper, and the employees would comply.[21]

But the report concludes that WorldCom has undergone "healthy change," with appointment of new management, a new board of directors, removal of tainted personnel, plus the work of a court-appointed corporate monitor who has "expedited dramatic change" at the company.[22]

The bankruptcy examiner drew harsher conclusions. First, that cultural factors at WorldCom were central to the "other issues"—*i.e.*, non-accounting fraud; the report's conclusion merits quotation at length:

> Although the economic magnitude of these other issues may not approach the dollar amount of the previously identified accounting irregularities, they closely resemble them in their egregiousness, arrogance and brazenness. These deficiencies reflect a virtual complete breakdown of proper corporate governance principles, making WorldCom the poster child for corporate governance failures. Every level of "gatekeeper" that had the responsibility to promote and ensure proper corporate governance was derelict in its duties to some degree. Compounding the problem, a culture existed at WorldCom in which many who were aware of acts of wrongdoing and neglect stood silently by and took no steps to object.[23]

Other key findings were: (1) the CEO and CFO (Scott Sullivan, already indicted) dominated the board and made many decisions without checks; (2) M&A activity was frequently "*ad hoc* and opportunistic"; (3) the board of directors was frequently given little information and made hurried decisions on several major deals with little discussion; (4) the board was passive and extremely deferential, even as it became clear that the CEO was using WorldCom's financial resources to shore up his deteriorating personal finances; (5) there was no "meaningful debt planning" done;

(6) neither internal nor external audit controls were adequate.[24] Finally, and most ominously for WorldCom's future: "Unfortunately, the Examiner believes that the extent of the breakdowns at WorldCom will eventually be determined to extend even beyond the Examiner's findings and observations that follow."[25]

But neither of these reports purports to address the impact of a reconstituted WorldCom on the telecom marketplace, nor is the impact of Internet traffic hype discussed. To these and other salient matters we now turn.

Market Mayhem: Debt Relief for One; Debt Grief for Many

Consider as well the state of long distance: Consultant firm TeleGeography estimates 1,000 fiber cables nationwide, with only 5 percent of capacity utilized. Chicago alone has 3.6 billion voice-call capacity—1,200 simultaneous calls per resident.[26] Already, two of four Bell companies have permission to offer long distance nationwide, with the others likely to win approval to do so by year-end. As of April 16 the FCC had granted in-region long distance approvals in 41 Bell states, with another state (Minnesota - application by Qwest) pending decision by June 26.[27] At $157 billion, the debt levels of the four Bells and two other major long-distance carriers will range from two to ten times as high as that of the reconstituted, post-fraud WorldCom.[28] Keeping a seventh LD provider afloat will harm the other six carriers, by further subdividing a market with more players than demand can presently or foreseeably support. Future bankruptcies are likely enough without regulators artificially inflating their number by market intervention.

CEO Michael Capellas predicts that the new company will spend half as much on new equipment and grow twice as fast as its competitors.[29] However, customer losses could frustrate his plans. Since declaring bankruptcy (July 2002) the company has lost three percentage points in the small/medium business market; Merrill Lynch sees 30 percent of current customers declining to renew their contracts. With the consumer long-distance business continuing to show 10 percent annual revenue loss, business services, which have also been declining (by single digits), must grow 10 percent annually to compensate. Having invested $38 billion over the past six years, however, the company has top-quality infrastructure—with the prospect of Chapter 11 wiping out most of the debt incurred to build it.[30]

Holding on to customers will likely require price cuts; according to Credit Suisse First Boston, WorldCom cannot meet its earning projections unless it becomes "a very aggressive competitor bent on taking significant share."[31] A survey conducted by Morgan Stanley found that 82 percent of customers cited price as a factor in switching LD carriers; the same survey showed that even customers satisfied with current service might switch away from WorldCom for "strategic" reasons—*i.e.*, lingering concern about the firm's integrity.[32]

Perhaps the most damaging consequence of WorldCom's fraud is vast over-investment in LD networks. WorldCom's claim that Internet traffic was doubling every 100 days was first made in 1996, and subsequently picked up by industry and government officials. Eastern Management Corporation included in 2002 that much of the $90 billion invested was driven by traffic growth hype. To the extent that investment decisions by competing firms were made in reliance on this phony number, WorldCom induced a staggering capital spending spree by telecom firms.[33]

Antitrust scholar J. Gregory Sidak concludes that WorldCom may well have priced below its long-run average incremental cost; if true, this would constitute predation (unlawful predatory business conduct intended to harm competitors). And because the predation was intended to benefit top

managers who committed the fraud—by inflating the value of their shares, enabling "sweetheart loans"—there was no need for the company to recoup predation losses later on, a phase needed in ordinary cases to make predation a rational strategy.[34]

Sidak notes the baleful consequences of successful predation. Normally in network industries, price drops force the least efficient firms to exit the market. But if WorldCom emerges from Chapter 11 with an artificially low cost structure due to massive debt discharge, firms that are more efficient but which remain saddled with debt could find themselves undercut by prices below the true market cost of providing service. In turn, they could face bankruptcy and, according to Brookings Institution economist Robert Crandall, thus trigger a series of financial implosions akin to those suffered by the railroads in the mid-1800s and the airlines in the 1980s (the latter, alas, a continuing saga with no end in sight).[35] Sidak speculates that the FCC "misses the irony in its pronouncements about what an incumbent's forward-looking costs of operating a hypothetical telecommunications network would be."[36]

But that is far too kind to the FCC, which *fully* understands the relationship. Were the FCC to object to a reconstituted WorldCom emerging from Chapter 11 with an artificially low cost structure, it would be a tacit confession that *the agency's own TELRIC cost standard*, recently upheld by the Supreme Court on grounds of deference to administrative agency discretion, *is also below long-run average incremental cost*. How so? Because post-Chapter 11, discharged of nearly all its debt derived from network investment, WorldCom will have a cost structure similar to a green-fields, state-of-the-art network built overnight, except for using existing wire centers. In other words, *WorldCom's post-Chapter 11 cost structure will closely mimic TELRIC*.

No wonder AT&T is petrified. If there is irony here, it is *AT&T* hoist by its own *pétard*—supporting TELRIC as the cost standard for access to unbundled local network elements, whilst opposing a TELRIC-like cost structure for its prime long distance competitor. AT&T, like the Bells, will thus face a rival whose costs are artificially established by regulatory fiat, rather than the real-world marketplace.

A companion irony: the FCC, notorious for its "competitor-welfare" standard of managing market competition—protecting all but those dastardly Bells—is now helping one of its pets, WorldCom, but harming another darling, AT&T. Maintaining the fiction that protecting competition is synonymous with protecting competitors has now come full circle. The Commission has progressively enmeshed itself in more and more micro-management; each specific rule is intended as what can be called a "Regulatory Joint Direct Attack Munition" (R-JDAM). But judging by the current state of the telecommunications industry, the cumulative effects of countless R-JDAMs since passage of the 1996 Telecom Act looks less like Baghdad in 2003 than Dresden in 1945.

The Fraud the SEC and Creditors Ignored, Which the FCC Shouldn't

WorldCom has admitted financial fraud for 1999-2001. But its *Internet traffic* fraud began in 1996.[37] The bogus number surely inflated the value of its stock and thus helped fuel post-1996 acquisitions. In late 1997 WorldCom beat out GTE in a bidding war for MCI (British Telecom was actually MCI's original suitor). With non-inflated stock, GTE might have won out, in which case there would have been no merger with Bell Atlantic, and no Verizon, but instead a new integrated local/long distance carrier in 1998. Which market outcome is better will never be known and is beside the point. But the possibility illustrates one kind of potential hidden consequence

of corporate fraud—potential spectacular distortion of market structure.

Had GTE acquired MCI instead of agreeing (in 1998) to merge with Bell Atlantic, it would never have had to seek FCC approval prior to entering in-region long distance markets. The 1996 law expressly restricted prior FCC consent for long-distance entry to applications by the Bells alone. GTE likely would have entered long distance nationwide at least a year before Bell Atlantic won FCC approval to enter its first state (New York, in January 2000), and more than four years before Verizon (as successor company) won approval in its last states (March 2003), finally acquiring the right to offer long distance nationwide. Values for other LD companies—and the prospective viability of new fiber networks—would have been radically different in such event. But that was the road not taken.

So what will the marketplace look like in 2010 if WorldCom is rescued, versus how it would look if WorldCom is liquidated? For a clue, one might turn to another industry with artificially inflated capacity—the airlines. A collection of carriers saddled with excess capital costs and high labor costs; with very low margin services under continuing price pressure from more companies than the market will likely support; with investors, once burned, twice learned, remaining leery of premium offerings promising the next big thing for the indefinite future. Telecom companies, fasten your seat belts.

A Cure Less Worse than the Disease: WorldCom, R.I.P.

The SEC and the bankruptcy court have both focused on WorldCom's financial fraud. But a fine smaller than one year's federal contracts, followed by Chapter 11, is grossly inadequate. *It glosses over the massive Internet traffic fraud that prompted vast over-investment*. Allowing WorldCom to survive ignores the basic distinction between criminal and civil wrongs (torts). Whereas a civil wrong is committed solely against a person, a crime is an offense not only against a particular person (or persons), but also an offense against the community—what was under English common law a "breach of the King's peace." *The state thus can act on behalf of the community even if the victim relents.* But prosecuting executives for defrauding shareholders *ignores ongoing harm done to WorldCom's competitors*. The impact on the telecom marketplace will be felt for years. Minimizing such harm is essential. Chapter 11 will, perversely, maximize it.

For that reason, the willingness of 90 percent of WorldCom's lenders to accept Chapter 11 fractional pay-off, while relevant, is far from the end of the inquiry. This is neither a matter for the bankruptcy court, which referees financial settlements, nor for the SEC, which polices the securities markets to ensure their integrity. It is rather a matter for the FCC, which polices spectrum.

The FCC has the power to revoke or suspend licenses, or deny initial grants, if applicants fail to demonstrate "good character." The agency once denied a wireless common carrier a spectrum license because the carrier concealed the fact that it had already begun constructing the radio tower for which it had applied to the FCC for permission to build.[38] In one radio license case the FCC stated that "where there has been a pattern of deliberate misrepresentation, revocation is the *only* appropriate remedy."[39]

The FCC can revoke WorldCom's licenses and thus force Chapter 7 liquidation of the firm. The network assets would be auctioned off, and employees associated with those assets would draw paychecks from an acquiring firm, untainted by the past fraud. WorldCom would not profit going forward from the company's past sins, with only top management changed.

WorldCom's massive fraud caused tens of billions of excess telecom investment, financially wounding its rivals and its suppliers. Along with Enron and Arthur Andersen, WorldCom became synonymous with abusing investors' trust, contributing mightily to the collapse of the tech sector and general loss of public confidence in Wall Street. Those consequences persist to this day. Such appalling injuries require severe punishment. Conversely, allowing WorldCom to survive will enable the new firm to continue harming innocent competitors.

Yet despite this vast financial and market wreckage caused by WorldCom's fraud, the government continues to treat the company as just another debtor that made a financial misjudgment. In this view, the guilty are a few senior management executives, since departed, leaving a company untainted by their crimes. But the company in fact continues to benefit from a market position gained at least in part via fraud. Even as this issue goes to press the company is winning federal government contracts – including two in one week last month.

One is a seven-year contract to build a VSAT (Very Small Aperture Terminal—*i.e.*, small satellite dish) network distributing meteorological data to over 90 locations worldwide for the National Oceanic and Atmospheric Administration. The award came one day after the SEC announced its settlement and fine.[40]

The second contract is for a wireless network in Iraq dedicated to use by reconstruction officials. Using the European GSM networking standard, the network will have 19 cell towers and serve 5,000 to 10,000 mobile phones. The award was made despite WorldCom having had *zero* experience in building wireless networks; formerly it resold services of other wireless carriers but provides no current wireless service. Because the contract was time-urgent , it was not put out for competitive bid.[41] It is capped at $45 million.[42] The government's pre-emptive choice shut out a planned bid by AT&T and Telstra, the national carrier of coalition partner Australia.32a (you might have to redo the footnote order after 32)

For all of 2002 WorldCom ranked *eighth* in federal prime contracting, at $772 million; the firm had never before ranked in the top ten.[43] The government had disqualified Arthur Andersen and Enron after their scandals were revealed; WorldCom's fraud came to light early in 2002. That one-year figure by itself is more than 50 percent greater than the fine the SEC wants to levy on WorldCom.

Hiring WorldCom to build a wireless network is not quite as bad as hiring Saudi Arabia to consult on building democracy in Iraq, but it is a curious choice. What makes it "curiouser and curiouser" (as Lewis Carroll might put it) is that in 2002 Sprint lodged a complaint with the General Accounting Office (GAO) over a $450 million contract awarded WorldCom by the Defense Information Systems Agency (DISA). The GAO, the top federal watchdog, investigated, and concluded that DISA "relied on grossly inaccurate financial information in making a determination that WorldCom was a responsible contractor"; however, the GAO also concluded that it lacked jurisdiction to rule on Sprint's complaint.[44]

Yet it still is not too late for the FCC to act. It has independent regulatory authority to decide whether WorldCom is fit to hold radio licenses. Revocation does not throw employees to the dogs, shutter network capacity or leave the federal government communicating via smoke signals. The FCC should revoke WorldCom's radio licenses and force Chapter 7 liquidation, based upon massive and repeated violations of its "good character" licensee rule during 1999-2002. The FCC's *own* words—"where there has been a pattern of deliberate misrepresentation, revocation is the *only* appropriate remedy"—call for no less.

[ET CETERA]

Los Alamos Hits Paydirt on Detecting "Dirty" Bombs. Los Alamos National Laboratory has developed a handheld field nuclear detector that can be attached to a Palm Pilot. It can detect radiation instantly and, unlike a Geiger counter, identify the type of radiation detected. A crystal the size of four sugar cubes detects emissions. The data can be sent immediately by wireless e-mail to lab scientists for analysis. Border patrol officials in California plan to use the device.[45]

Digital Pearl Harbor Next? Mike McConnell, former director of the National Security Agency, predicts a cyber-9/11 sooner or later. He says it is the only way to wake up business users to cooperate in improving defenses. Telecom firms are, however, less vulnerable than other sectors.[46]

Baghdad Bloggers. Iraqi Internet connectivity went down during the war when US missiles destroyed the Iraqi Ministry of Information, on whose roof the radio antennas and satellite dishes were located. At present there is public Internet access at only one Internet café, which has five computers and a satellite phone. Iraq had an estimated 65 Internet cafes, but looters stripped them. Prewar Iraq had the lowest Internet penetration in the Internet-poor Arab world, with 250,000 users and only 25,000 home accounts. Access was restricted to state-sanctioned sites and services. Total bandwidth for the entire country was 10 megabits per second, equal to one standard Ethernet local area network link.[47]

Pell-Mell Cell—Cell-Tel Hell? A federal appeals court recently upheld the FCC's decision requiring wireless carriers to provide full cellphone number portability by November 24, 2003. The carriers face software upgrade costs of at least $50 million to implement the capability, plus higher churn rates. Yankee Group estimates that the wireless industry's current 2.8 percent monthly churn rate could double to 6 percent—a 72 percent annual rate. Yankee estimates current subscriber totals, market shares and 4Q02 churn rates among the seven largest carriers' 135 million customers as follows: Verizon - 32.4M, 23.9%, 2.1%; Cingular - 21.9M, 16.2%, 2.7%; AT&T – 20.9M, 15.4%, 2.4%; Sprint – 14.8M, 10.9, 3.5%; Nextel – 10.6M, 7.8%, 2.2%; T-Mobile – 10.0M, 7.4%, 3.5%; Alltel – 7.6M, 5.6%, 2.8%.[48]

Spamerica, Meet SpamOz. Australia is releasing a report by the National Office of the Information Economy on spam. The Minister of Communication declared that spam has "gone beyond a nuisance to a menace." Thus, Australia plans to propose outlawing spam sent without recipient consent, creating a list of known Internet spammers and promoting international cooperation modeled after the existing International Consumer Protection and Enforcement Network.[49]

Spamonomics. One need go no further than the principles of the "dismal science" to explain why spam is metastasizing: To target one million people with junk snail mail costs at least $40,000 for a mailing list and another $190,000 for bulk-rate postage, with paper and printing cost extra. Internet company fees for routing e-mails run up to $2,000 per million in-boxes, with higher costs if the source is legitimate! Spammers can make a profit if one out of 100,000 customers bites.[50]

Spam the Torpedoes. E-marketers are equally cavalier about inconvenience to involuntary recipients: As one partner of NetGlobalMarketing, an LA firm, recently put it: "These

antispammers should get a life. Do their fingers hurt too much from pressing the delete key? How much time does that really take from their day?"[51] Well, Ms. Spam, try these numbers: At 5 seconds to highlight and delete a message, with a dozen per day to delete, makes one minute per day; over a calendar year that adds up to 6 hours, 5 minutes wasted getting you out of my face. Yo, Congress.

High-Speed Homework Down Under. Australian household Internet penetration is 58 percent, with 4 percent using broadband; high-speed users spend 11 hours online weekly—nearly one-third of their total media use—while dial-up users spend only 6 hours online. Household broadband subscription Down Under is being driven increasingly by parental concerns over education.[52]

Help, I'm Trapped in a…Computer-Controlled Car? On his way to address a meeting of seventeen finance ministers, Thailand's finance minister found himself trapped in his BMW, doors closed, windows sealed, and no air-conditioning. After ten minutes he signaled a passerby to break a window, and he was rescued. Cause: a computer glitch (what else?).[53]

[1] *Ask Stuart Elliott: Is That Kiefer Sutherland on the Line?*, NYT Advertising Service.
[2] *In WorldCom Case, SEC Files Proposed Settlement of Claim for Civil Penalty; Proposed Settlement is Subject to Approval of Both District Court and Bankruptcy Court*, U.S. Securities and Exchange Commission, Litigation Release No. 18147 (May 19, 2003).
[3] *Rivals incensed over WorldCom's wireless deal in Iraq. The Telecom firm whose $11 billion accounting fraud put it in bankruptcy is not a cellular expert*, The Philadelphia Inquirer, City-D-East, p. C10 (5/22/03). This report was apparently carried over AP Newswire (5/21/03).
[4] *Consent and Undertaking of Defendant WorldCom, Inc., Securities and Exchange Commission v. WorldCom, Inc.*, Civ. No. 02-CV-4963 (JSR), p. 2.. Section 308 (Fair Funds for Investors) is the investor claims section of the law.
[5] Opinion of Jed S. Rakoff, District Judge, Securities and Exchange Commission v. WorldCom, Inc., pp. 1-2, 02 Civ. 4963 (JSR) (May 19, 2003.
[6] *Id.*, p. 1.
[7] *WorldCom Agrees to Pay $500 Million*, washingtpost.com (5/20/03). < http://www.washingtonpost.com/wp-dyn/articles/A12931-2003May19_2.html v>
[8] *Competitors Angry Over WorldCom Settlement Proposal*, AP (5/21/03).
[9] *WorldCom Creditors Back Plan to Reorganize in Bankruptcy*, Wall Street Journal, p. 1 (Apr. 14, 2003).
[10] *MCI Agrees to Pay $500 Million In Fraud Case, S.E.C.'s Largest*, New York Times, p. A1 (May 20, 2003).
[11] Barr Press Release on WorldCom Reorganization Plan, Apr. 15, 2003. (The author was Director – Technology Affairs with Verizon at the time of his retirement in November 2000; from time to time during 1994 – 2000 the author worked on matters directly with Barr at GTE, and then after the Bell Atlantic-GTE merger, at Verizon.)
[12] *Verizon to MCI: Drop Dead*, Wall Street Journal , p. B1 (May 14, 2003).
[13] *Chapter 11: Laundering Fraud?*, Wall Street Journal. P. B1 (May 14, 2003).
[14] Report of Investigation by the Special Investigative Committee of the Board of Directors of WorldCom, Inc. (March 31, 2003).
[15] Second Interim Report of Dick Thornburgh, Bankruptcy Court Examiner (June 9,m 2003).
[16] Special Report, note 16 *supra*, p. 1.
[17] *Id.*, p. 4.

[18] Id.

[19] *Id.* The report commissioned by WorldCom's board was actually completed March 31; the Bankruptcy Examiner's report was completed June 9.

[20] *Id.*, p. 17.

[21] *Id*, p. 35.

[22] *Id.*, p. 36.

[23] Bankruptcy Court Examiner's Report, note 17 *supra*, p. 3.

[24] *Id.*, pp. 7-12.

[25] *Id.*, p. 13.

[26] *WorldCom: Hold the Heavyweight's Requiem*, Wall Street Journal, p. C1 (Apr. 15, 2003). This amounts to 230.4 terabits-per-second city-wide capacity.

[27] *RBOC Applications to Provide In-Region, InterLATA Services Under Sec. 271*, FCC Common Carrier Bureau. < http://www.fcc.gov/Bureaus/Common_Carrier/in-region_applications/ >

[28] *Id.* Breakdown: Verizon, $54.3B; AT&T, $22.6B (AT&T says 1Q03 transactions have cut its figure to $12.9B); SBC, $22B; Qwest, $20.4B; Sprint, $20.3B; BellSouth, $17.4B.

[29] *US Airways, MCI Face Uncertain Futures After Chapter 11 Exit*, Washington Post, p.E1 (Apr. 28, 2003).

[30] *For Mike Capellas' Next Trick*, Business Week, p. 92 (May 26, 2003).

[31] *Reorg Filed; Forecasts Send Mixed Signals*, Credit Suisse First Boston (Apr. 14, 2003).

[32] *MCI Returns: What the Survey Says*, Morgan Stanley (Apr. 14, 2003).

[33] Sidak, J. Gregory, *The Failure of Good Intentions: The WorldCom Fraud and the Collapse of American Telecommunications After Deregulation*, 20 Yale Journal on Regulation, p. 207,228-30 (2003).

[34] *Id.*, pp. 241-45.

[35] *Id.*, pp. 251-52.

[36] *Id.*, p. 259.

[37] For a detailed chronology of WorldCom's misrepresentation of Internet traffic, and of comments indicating reliance on same made by industry and government officials, see Sidak, note 23 *supra*, Appendix 1, pp. 261-67.

[38] *Id.*, pp. 254.

[39] *Id.*, p. 254.

[40] *MCI Wins NOAA Contract Day After Fraud Settlement*, Communications Daily (5/21/03.

[41] *Critics Incensed by MCI Wireless Contract in Iraq*, Contra Costa Times (Walnut Creek, CA), p. 4, 5/22/03. The apparent original source is the AP Newswires report cited in fn 3 *supra*.

[42] *MCI Nabs Baghdad Contract*, RCR Wireless News, p. 3 (5/10/03).

[43] *Rivals and Watchdogs Complain After MCI is Chosen for Iraq Contract*, Kansas City Star (5/22/03).

[44] *Critics Incensed by WorldCom Wireless Contract in Iraq*, AP Newswires, fn. 3, *supra* (5/21/03).

[45] *Device Used to Detect 'Dirty Bombs'*, Washington Times, p. A2 (Apr. 19, 2003).

[46] *'Cyber 9/11' Risk Warning*, smh.com.au (4/24/03).
< http://www.smh.com.au/articles/2003/04/21/1050777200225.html >

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