Opening Statement of Chairwoman Sue W. Kelly

Subcommittee on Oversight and Investigations
Committee on Financial Services Hearing on:
The Effects of the Global Crossing Bankruptcy on Investors, Markets, and Employees

March 21, 2002; 2128 Rayburn

In the interest of ensuring proper committee consideration of H.R. 3763, the Corporate and Auditor Accountability, Responsibility and Transparency Act, known as CAARTA, we are here today to examine the status of the telecommunications industry. We will hear from the executives of the companies, from industry experts, and from an accounting expert at the Securities and Exchange Commission.

Global Crossing's bankruptcy in January marked the fourth largest bankruptcy in the history of the United States. It serves as an ominous warning to the financial and business community and has had far-reaching consequences. While the overall downturn in the telecom industry was a factor in the collapse, the fall of Global Crossing raises serious questions about current accounting practices, disclosure requirements and corporate management.

Just yesterday, we learned that Global did not disclose a complex communications deal several months before the company filed for bankruptcy in January. Experts called the lack of disclosure a serious lapse by management.

An estimated five hundred thousand jobs have been lost in the telecom industry. Global Crossing's bankruptcy resulted in the loss of an estimated 9,000 jobs and has caused real harm to investor confidence. It has had an impact on my home state of New York. State wide, Global Crossing has eliminated hundreds of local jobs and the New York State Pension Fund lost $63 million as a result of the collapse. How did a company that was perceived by all conventional measures as healthy, fall so far, so fast?

By all accounts, Global Crossing was a winner, but now we know that it was actually a financial time-bomb. Did some top executives know that the clock was ticking and time was running out? One thing is certain - we do know that the bomb was tossed right in the lap of employees and investors who didn't have a clue that the company was going under.

The collapse of Global Crossing calls into question how much confidence employees, investors and the public should have in financial information released by companies, particularly pro-forma financial projections.

Since these pro-forma statements are not required to use Generally Accepted Accounting Principles, known as GAAP accounting, a company such as Global Crossing can massage their numbers on these pro forma financial statements, or in other words, these pro-forma statements provide an easy opportunity to 'cook the books.'

In the case of Global Crossing, the company's pro-forma statements may have misinformed investors and employees as to the profitability and performance of the company. In an examination of Global Crossing's filings submitted last spring with the SEC, the company reported an additional $531 million in earnings in the pro-forma statement, pumping up earnings by nearly 50 percent, as the result of controversial swaps activities.

However, the $531 million was not included in the company's GAAP-compliant statement of earnings. Why not? Because under present required disclosure regulations it didn't exist. It wasn't required to exist.

In addition, we need to examine the way in which companies report their swaps of Indefeasible Rights of Use, known as IRU's. It appears that swaps are being used as a quick and easy way to inflate earnings and make a company look more profitable than it really is. Investors deserve accurate information and in some cases they are not getting it. We need to know how the SEC views these IRU's since some have alleged that this accounting practice has mislead investors and the companies' employees as to the true profitability of these corporations.

Other issues raised by the collapse of Global Crossing include corporate governance and responsibility, including blackout periods imposed on employee 401(k) plans. At the highest levels of Global Crossing, top executives were selling stocks and pocketing millions before the company's collapse. Former CEO Gary Winnick sold stock worth $734 million before the company collapsed, while this winter, employees of <u>his</u> company watched their savings, investments, and severance packages disappear.

The purpose of hearing is to take an honest look at the issues surrounding the collapse. The ultimate goal is to protect workers and investors and prevent this from happening in the future through new legislation.

Accounting methods, financial disclosure and transparency, and corporate governance are matters that the full Committee is deliberating upon now. I believe CAARTA provides a comprehensive solution to our concerns and will restore investor and employee confidence in company disclosures.

I would like to note for the record that we invited the President of the Communications

Workers of America to testify, however he was unable to join us due to scheduling problems. In addition, we also invited the American Institute of Certified Public Accountants to testify, but they were also unable to accept the invitation.