



**Ed Knight Speech
U.S. Chamber of Commerce
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Standing just a block from the Treasury where I worked not so long ago, listening with appreciation to the kind words of a former colleague, and seeing so many friends in the audience, this really feels like a homecoming. My thanks to Lisa for her gracious introduction and to the Chamber's Institute for Legal Reform for the opportunity to participate in the Conference on Lawsuits and Global Competitiveness -- an issue of major importance to NASDAQ as we compete for business in a rapidly-changing, highly competitive global marketplace.

Believe me – we appreciate the work you are doing and we are proud to be part of it.

I'd like to tell you a little bit about NASDAQ – who we are, what we do, what we stand for, how we plan to meet the test of global markets, and why litigation and regulation are important competitive issues for us.

In other words, I am going to explain the global equity markets in 15 minutes – a tall order for a long-winded lawyer.

Thirty-six years ago NASDAQ invented the electronic exchange and revolutionized the way stocks are traded around the world. Before NASDAQ, stock markets were like foreign-flag airlines: every country had to have one, even if they weren't very efficient. Exchanges tended to be clubby, fusty places – old school businesses, not accountable to shareholders.

In 1971 NASDAQ brought technology and the entrepreneurial spirit to American markets. We offered investors a faster, fairer, less costly and more transparent trading option – no floor, no pillars, no privilege. No men in smocks. Look around the world today and you will see that every market bears an uncanny resemblance to the NASDAQ model – because every market in the world is trying to emulate our speed, transparency, valuations, and state of the art technology.

Today we are the largest U.S. equities exchange. We list 3,200 companies, domestic and international, drawing from all areas of business. On average, we trade more shares per day than any other market. We touch 52% of NYSE share volume. Last month NASDAQ set a new single-day record, trading 3.3 billion shares. In a business where technology is the primary differentiator, our speed and capacity are unequalled.

Let me talk about speed. NASDAQ is the industry leader and executes in less than one millisecond. Our systems are rated to handle 120,000 transactions per second. During the Russell Rebalance on June 22, we traded 678 million shares representing \$11.7 billion in less than 2 seconds.

The regulation of the market operations and the members of the exchange is conducted by an independent not for profit entity – the NASD. This ensures that we minimize any conflicts real or imagined in the regulation of the market. This is a structure that is

increasingly viewed as the industry standard. The NYSE is now moving in this direction by taking its regulator out of its corporate structure and merging it with the NASD.

Surprisingly, some people still don't realize that NASDAQ is no longer part of the NASD. In fact, NASDAQ is a publicly-owned corporation – and has been for seven years. We went public to separate from the NASD and because we saw how the global economy was evolving. We wanted our exchange – a crucible of free market enterprise – to be subject to the same market forces and disciplines as companies choosing to list with us. Perhaps most important, we recognized that access to capital markets was essential for NASDAQ to acquire the technology and skill sets necessary to maintain leadership in the world markets of the future.

What will those markets look like? Well, for starters, market consolidation on a global scale has become today's reality. The future of exchanges is all about technology, flexibility, and scale. Premier markets worldwide are publicly owned, increasingly transparent, highly competitive, keenly attuned to customer needs, and global in scope and scale.

We welcome the challenge of global market consolidation. We are confident of our ability to compete against any market anywhere in the world. And we are not standing still.

Just a few months ago, NASDAQ and OMX -- a major European exchange based in Sweden with markets in seven Nordic and Baltic countries -- announced we would combine to create the world's broadest exchange and premier technology company: 4,000 listed companies from 39 countries with an aggregate market cap of \$5.5 trillion. In addition, OMX provides technology services to markets in 60 countries around the world.

With consolidation and technology leadership, we can now move towards offering brokers and traders the ability to connect with exchanges around the world through a unified architecture that can handle stocks, bonds, derivatives, and other instruments.

The Nasdaq/OMX vision of the global markets is better for all investors. They can hedge more effectively. They can leapfrog existing market structures and do simultaneous trades in different types of asset classes. They can access multiple markets at lower costs. It's a win-win situation for investors worldwide.

The second fact of life in globalized markets is increased competition for American exchanges. There was a time – not so long ago – when entrepreneurs worldwide automatically looked to American markets – usually to NASDAQ – when it was time for an IPO. Liquidity was an American preserve.

That is no longer the case. Today billions of dollars can move around the globe instantly, at the stroke of a computer key. While America still represents by far the largest pool of equity capital in the world, maturing markets are rapidly catching up, closing the gap, and becoming viable alternatives to the United States – frequently with less hassle, cost and jeopardy.

Companies today have choices. There are functioning capital markets in countries like India, Singapore, and Brazil. There are huge, successful billion dollar enterprises in those countries that have never had to come to our markets for their capital requirements.

One of the best parts of my job is that I get to travel around the world and meet with their best, up- and-coming CEOs in places like India and Israel. We talk about IPOs and markets. These CEOs are well aware that NASDAQ and the NYSE are the deepest and most

well-established pools of liquidity in the world today. They understand that. They appreciate the incredible liquidity of American markets. They know we offer the best valuations in the world, the most sophisticated investor community, and unparalleled visibility.

But they also know they have alternatives. And they want to be sold. Frequently, we have to start by selling them on American markets – and only then on NASDAQ. We are finding that, for smaller companies considering an IPO, cost is frequently an important consideration. A million dollars matters. Accountants and lawyers and regulatory uncertainty create costs unique to American markets and drive listings to London or elsewhere.

Clearly, concerns about America's regulatory climate and our unique appetite for litigation are influencing entrepreneurial decisions on where to list IPOs. Our foreign competitors are benefiting from those concerns. According to E and Y, in 2005 only 1 of the 24 largest IPOs in the world were done in America.

Consistent with this concern over regulation, in the U.S. the venture capital community is increasingly turning to M&A as opposed to IPOs as an exit strategy. And larger, established companies are every day choosing to go private-- and by going private they are going dark and ceasing their SEC reporting.

Despite these inroads and tougher competition for every listing, the American IPO is still alive and kicking. Last year America led the world with 187 IPOs; NASDAQ's first quarter 07 was our best for IPOs since the dot com boom -- and our second quarter was also robust. The best companies in the world realize it may be easier or less rigorous to list elsewhere, but American markets still offer unique advantages. As a general matter we offer low cost efficient executions and cheap market data which is lifeblood of any market.

At Nasdaq we are also competing through innovation by offering exciting new products to entrepreneurs worldwide –including a potential game-changer in the world of IPOs. Many people are surprised to learn that last year more equity capital was raised in conjunction with Rule 144A private placements than on the NASDAQ, the NYSE, and the AMEX combined. It is not necessary to go public to raise capital. Companies can opt instead to for PORTAL securities, a restricted investment class that can only be sold to and traded by Qualified Institutional Buyers who do not require the kind of protections provided to retail investors. PORTAL securities are therefore exempt from the Sarbanes-Oxley provisions and SEC registration and disclosure requirements that are frequently cited as a reason to take an IPO offshore.

Just yesterday the SEC approved NASDAQ's reinvention of the Portal market. The new Portal will bring the 144A market into the 21st Century. In just a few weeks we will launch an industry-wide, fully transparent quoting and trading system that will provide the first centralized location for displaying and accessing trading interest in 144A debt and securities.

The new Portal market will allow companies to tap the private equity markets for capital, take time to grow the business and develop more accurate pricing – and then take the step into the public markets when the price and time are right.

So the IPO sky is not falling – but the game has changed. Globalization has consequences. It challenges traditional assumptions and ways of doing business. In this worldwide battle for listings, no country can afford unilateral, self-imposed handicaps -- like SOX 404 ... vast and unique exposure to class action litigation ... regulatory uncertainty

...and protracted battles over accounting standards. Any one of those issues can tip a decision on where to list.

I know I'm preaching to the choir on these issues. We appreciate the Chamber's leadership in helping us move to a more level playing field. We're making progress. The SEC's leadership in establishing a roadmap to recognition of international financial accounting standards will produce real results in 2008. Congress, the Administration, the SEC, and the business community are making a serious and concerted effort to deal with the major challenges of Section 404. The Public Company Accounting Oversight Board is proposing constructive changes. NASDAQ welcomes this initiative but we believe it needs to go farther. We are proposing a greater focus on evaluating the effectiveness of management's internal controls, rather than individual controls. We want companies to be able to voice claims of over-auditing, and we are proposing an Ombudsman office at PCAOB to provide such an outlet.

The whole question of litigation continues to be a serious challenge for us and is having a major impact on our ability to compete in globalized markets. A European company considering an IPO on NASDAQ today must weigh the unique costs and jeopardy associated with America's highly litigious legal environment. A decade ago, that might have been considered a cost of doing business. But in today's markets, that company can list instead in Sweden or the UK where potential cost and exposure to litigation are far less. In a highly competitive market, that can be a tough hill to climb.

We fully appreciate that a strong legal system underpins all successful stock markets. In the final analysis, we are trading pieces of paper. Our business could not exist without a sophisticated legal structure to protect investors, businesses, and consumers. But – as Secretary Paulson has pointed out – “our legal system has gone beyond protection. Simply put, the broken tort system is an Achilles heel for our country. This is not a political issue; it is a competitiveness issue and it must be addressed in a bipartisan fashion.”

I can tell you from personal experience that the Secretary has it exactly right. It is tough to compete when the cost of our tort system reaches 2.2% of GDP – three times the level in the UK – and only 42 cents of every tort dollar goes to compensate injured plaintiffs. Reducing this competitive disadvantage is absolutely essential if we want to maintain global market leadership.

The recent Supreme Court decision in the Tellabs case represents welcome progress; NASDAQ was on the brief and we were pleased with the outcome. In that case the Supreme Court established a clear and high legal standard that must be met before class action suits can proceed.

Still, this is going to be a long, drawn-out battle that will require sustained leadership from groups like the Chamber – groups that appreciate the huge importance of the Supreme Court's recent agreement to review the Stoneridge case. We can't base securities litigation on a theory like “scheme liability” that would impose special risks on companies listing on US capital markets – risks that simply do not exist in Europe or Asia

I'm sure some of you saw the *Economist* editorial suggesting that scheme liability lawsuits would mean that, “any firm, anywhere, doing business with American companies would have to live with the risk that the transaction could later be portrayed as fraudulent and deceptive. And painting such pictures is what trial lawyers do best.”

American exchanges and American markets are fully competitive, the best in the world. But they don't need and can't afford a handicap like scheme liability.

With global consolidation, IPOs, regulatory uncertainty, PORTAL, volatility in the markets, hedge fund controversy, SOX, litigation issues, and M&A activity, there is no shortage of challenge in the marketplace. But NASDAQ has always thrived on challenge. Our commitment to innovation and our leadership in technology have made us the home port for the entrepreneurial spirit worldwide – the place where success meets the marketplace.

We face the future with confidence and we look forward to working with all of you to sustain American leadership in global markets while we build an exchange that sets the standard worldwide and embodies the spirit, values, fairness and leadership that make America unique.