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March 5, 2003

Via Hand Delivery

RECEIVED

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte Presentation
IB Docket No. 03-38

Dear Ms. Dortch:

On March 04, 2003, the undersigned counsel for ABS-CBN Telecom North America, Inc. ("ABS-CBN"), met with Claudia Fox, Deputy Chief International Bureau Policy Division, to review the position taken by ABS-CBN in its February 27 Reply Comments.

The following points were stressed:

1. **AT&T has not met the legal standard for a stop-payment order.** So far as ABS-CBN Telecom and non-dominant Philippine carriers (e.g., Bayan Telecommunications, Inc. (Bayantel) are concerned, AT&T has failed to make the necessary legal showing under Virginia Petroleum Jobbers Ass'n v. FPC, 259 F.2d 921 (D.C. Cir. 1958) and its progeny to justify grant of the extraordinary injunctive relief requested. A blanket order requiring all U.S. carriers to suspend their private contractual agreements to pay all of their foreign correspondents to terminate traffic on a route which is presumed to be competitive (e.g., one open to International Simple Resale) (ISR) would be unprecedented. Hence, AT&T plainly has the burden of proof to show that legal grounds for any such order have been met – and for **all** carriers which would be affected by any order – something AT&T has not done. See p.3 n.5 to the ABS-CBN Telecom Reply Comments.
2. **Bayantel has no power to whipsaw AT&T and has not blocked on-net AT&T traffic.** Bayantel has no market power in the Philippines and provides service to only approximately 1% of the more than 20 million wireline and mobile subscribers in the Philippines. See the attached data on the market shares of Philippine and U.S. carriers, a copy of which was provided to Ms. Fox.

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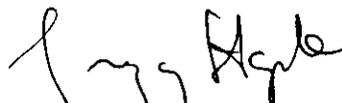
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In any case, Bayantel has not blocked AT&T on-net traffic, as alleged. The statements in AT&T's "Reply to Oppositions" at p.8 simply cannot be squared with the evidence available to Bayantel. Compare Exhibit 1, ¶7 to the ABS-CBN Telecom Reply Comments.

3. **Competition would be harmed by subjecting ABS-CBN Telecom to any stop payment order.** Based on the latest available data (again, see the Attachments hereto), ABS-CBN Telecom carries approximately 1% of U.S. billed traffic on the U.S.-Philippines route though this traffic accounts for over 90% of the carrier's revenues. If ABS-CBN Telecom is unable to pay its Philippine correspondents, its service would be jeopardized and its very existence would be placed at risk. Thus, including ABS-CBN Telecom in any across-the-board stop payment order would be likely to deprive thousands of U.S. consumers of their preferred Philippine carrier without having a significant impact on the revenue stream of any dominant Philippine carriers which is alleged to have whipsawed AT&T. Any blanket stop payment order would merely enable financially stronger carriers, such as AT&T and WorldCom which are able to survive the suspension of U.S.-Philippine service, to take over the customer base of small niche carriers such as ABS-CBN Telecom. For this and the other reasons stated in the Reply Comments, any stop payment order adopted by the FCC should be carefully tailored and exclude U.S. international carriers with *de minimus* U.S. billed traffic on the U.S.-Philippines route.

4. **There is no evidence that Bayantel has colluded or acted in concert with other Philippine carriers to whipsaw AT&T.** The fact that Bayantel's settlement rates are similar to those of other Philippine carriers does not provide any evidence of "collusion." Pursuant to local regulations, Philippine wireline (and mobile) carriers have traditionally had similar, non-discriminatory interconnection rates. An analogous situation exists in the U.S. (*i.e.*, U.S. IXCs typically are offered parallel access terms by LECs; likewise, CLECs are entitled to non-discriminatory interconnections with ILECs and have been able to "pick and choose" the most desirable terms from ILEC interconnection agreements, thus affording the opportunity for essentially identical rates). Hence, the fact that Bayantel's international settlement rates are approximately the same as those of other Philippine carriers stems from the fact that each carrier's domestic interconnection rates are approximately the same, a result which, to the knowledge of ABS-CBN Telecom, is consistent with domestic regulation in the Philippines.

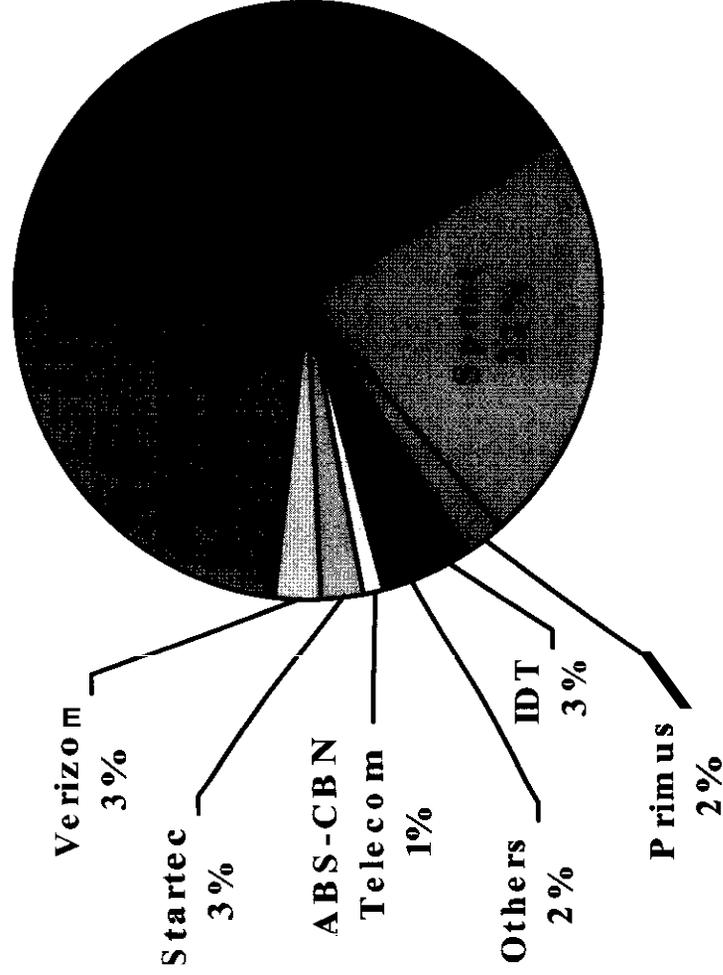
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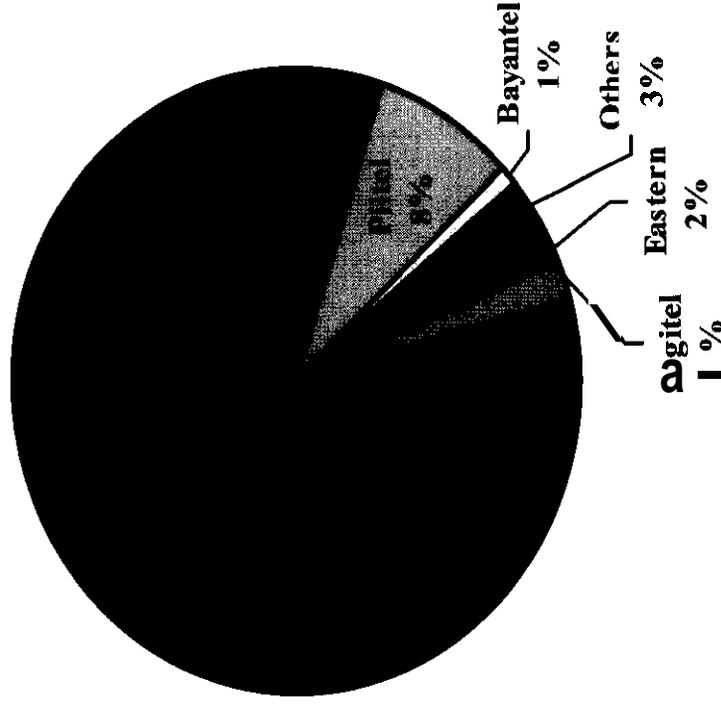
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Market Shares of U.S. and Philippine Carriers

U.S. Carriers¹



Philippine Carriers²



¹ Based on 2001 U.S. billed international switched telecommunications traffic.

² Based on 2001 wireline and 2002 mobile subscribers.

**Access Lines / Subscribers for
Selected Philippine Couriers**

Carrier	Services	Subscribed Lines (x106)	Mobile Subscribers (x106)	Total %
PLDT	Wireline/IGF	2.1	–	10.4
Smart	Mobile/IGF	–	8.9	44.1
Globe	Wireline/Mobile/IGF	.15	6.0	30.0
Piltel	Wireline/Mobile/IGF	.08	1.5	7.8
Digitel	Wireline/IGF	.39	–	2.0
Islacom	Wireline/Mobile/IGF	.07	.23	1.5
Extelcom	Mobile	–	.25	1.3
Bayantel	Wireline/IGF	.21	–	1.0
Philcom	Wireline/IGF	.05	–	<1
Other		.26	–	2.0
Total		3.31	16.9	100.0

Notes: PLDT is the controlling shareholder of Smart. Bayantel and Digitel have mobile licenses but were not operational in 2002.

Sources: Company reports and National Telecommunications Commission (NTC). Fixed line data as of 12/31/01. Mobile subscribers as of 9/30/02; some carriers estimated.

**U.S. Billed Traffic to
the Philippines 2001**

Carrier	Minutes (x 10⁶)	Percent
AT&T	519	31.2
WorldCom	386	23.2
Sprint	377	22.7
PLDT	173	10.4
Startee	44	2.6
Verizon	44	2.6
Primus	35	2.1
JDT	34	2.0
ABS CBN Telecom	18	1.1
Telecom Italia	17	1.1
C&W	12	.7
Other	5	.3
	1664	100

Source: 2001 International Telecommunications Data, Industry Analysis & Technology Division, FCC.

Prepared by Vinson & Elkins L.L.P., March 4, 2003