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June 25, 2003

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

Re: Ex Parte Presentations
Petitions for Protection from Whipsawing on the U.S.-Philippines Route, IB Docket No. 03-38

Dear Ms. Dortch:

On June 24, 2003, Mr. Gil Genio, Head of Wireline and Carrier Business, Globe Telecom Inc. ("Globe"), Ms. Caridad Gonzales, Head of Legal Services, Globe, and Patricia Paoletta and Heather Dixon, Wiley Rein & Fielding, met separately with: Bryan Tramont, Senior Legal Advisor to Chairman Powell, and Trey Hanbury, Office of General Counsel; Lisa Zaina, Senior Legal Advisor to Commissioner Adelstein; Sam Feder, Legal Advisor to Commissioner Martin; Jennifer Manner, Senior Counsel to Commissioner Abernathy; and Paul Margie, Legal Advisor to Commissioner Copps.

At each meeting, Globe expressed its concerns about the International Bureau order in the above-captioned docket dated March 10, 2003. Specifically, Globe noted that the order, which found, without evidence of collusion or retaliation, whipsawing of AT&T and MCI by non-dominant carriers operating in a competitive market, sets a troublesome precedent.

Globe addressed the misconception that its increased domestic interconnection and international termination rates were not cost oriented. In fact, Globe increased its rates because its costs have increased. During the 2001-2002 Philippine National Telecommunications Commission ("NTC") proceedings on rate rebalancing and wholesale and retail rate reform, in which the NTC began to develop its long-run incremental cost methodology, Globe took the opportunity to review its own cost structure. Globe determined that its government-mandated build-out and servicing of 1.4 million local lines—of which only 227,000 are subscribed—created significant expenses. The average cost of installing a local line is US$1,000. *See* Attachment A. The overcapacity, combined with the maintenance costs of the lines, has contributed to Globe's substantial debt, and has made the wireline business non-profitable. Further, Globe found that the significant depreciation of the Philippine Peso had increased Globe's costs for servicing debt and maintaining its network. Globe purchased state-of-the-art telecommunications equipment in the late 1990s, in

order to better compete with the Philippine Long Distance Company ("PLDT") and enhance customer service. But that equipment has debt that must be serviced in hard currency. While Globe's revenues from its customers are in Philippine Pesos, 95% of its more than US$1 billion of debt is in U.S. dollars.

Globe explained that, even under the Bureau's expanded definition of whipsawing, a finding of whipsawing was not justified. For instance, neither AT&T nor MCI produced any evidence of a conspiracy to raise international termination rates. While AT&T and MCI pointed to certain domestic interconnection agreements that contained uniform interconnection rates as evidence of such a conspiracy, U.S. antitrust law does not permit a finding of conspiracy solely based on evidence of parallel pricing. Globe stressed that the domestic interconnection agreements did not set international termination rates. Further, as set forth in Attachments B and C, the international termination rates proposed by Globe, PLDT and Bayan Telecommunications Inc. to U.S. carriers varied. While these rates took into account the domestic interconnection rates, ITU Recommendation D.140 permits consideration of the cost of access to national or local networks in establishing international termination rates.

Globe addressed the misconception that it "blocked" AT&T's circuits in retaliation for AT&T's refusal to agree to its rate increases.[1] In fact, prior to the issuance of an NTC order requiring Globe to stop terminating all traffic from carriers that refused to pay it, Globe continued to terminate AT&T's on-net traffic. Globe explained that the domestic interconnection rates effective February 1, 2003 forced it to refuse to terminate AT&T's off-net traffic after that date because Globe would have incurred a $0.04 per minute loss. No rational enterprise could act otherwise. Globe also noted that its refusal to terminate AT&T's off-net traffic has had no effect on U.S. consumers because AT&T is sending on-net and off-net calls to Globe via third parties.[2] Because these third parties have agreed to pay Globe's increased rates, Globe is able to terminate both on-net and off-net traffic received from them.

Because AT&T and MCI made much of Globe's domestic interconnection agreements with other Philippine carriers, Globe explained how the domestic

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[1] "Blocking" implies a breach of a service that is guaranteed under an effective contract. Globe's contract with AT&T for termination of switched voice traffic expired January 30, 2003.

[2] Globe also noted that AT&T's 78% profit margin on the U.S.-Philippines route implies that AT&T need not raise consumer rates if it accepted Globe's increased termination rates.

interconnection regime in the Philippines works and how it is affected by the Philippine regulator's non-discrimination requirement (attached hereto as Attachment D).[3] By law, a local exchange carrier ("LEC") like Globe's LEC must interconnect with all other LEC networks, international gateway facilities ("IGF") and commercial mobile telephone service ("CMTS") networks. Globe's interconnection agreements with other LECs, IGFs or CMTS networks are negotiated within the framework established by the NTC and are subject to NTC review. Further, its rates are set in accordance with NTC regulations—developed in conjunction with USAID—governing cost-orientation, wholesale pricing and interconnection. Globe emphasized that it developed its increased domestic interconnection rates within this framework and that the NTC found Globe's increased rates reasonable.

As noted, the NTC requires Globe's LEC to offer non-discriminatory interconnection rates to each LEC, each IGF and each CMTS network. *See* Attachment E. Under the NTC's non-discrimination requirement, Globe cannot charge an interconnecting party any more than it charges its own affiliate or internal business group for the same interconnect service. Ultimately, the non-discrimination obligation coupled with the similar cost structures of entrant LECs and CMTS networks leads to similar, if not uniform, IGF-LEC, IGF-CMTS, LEC-LEC and LEC-CMTS interconnection rates across the Philippine industry.

Globe addressed the differential between domestic LEC-LEC and CMTS-LEC rates, and IGF-LEC and IGF-CMTS rates. Differences result from the fact that LEC-LEC and CMTS-LEC rates traditionally have been expressed in Philippine Pesos while IGF-LEC and IGF-CMTS rates traditionally have been expressed in U.S. dollars. Thus, rates that started off comparable, over time, have diverged because the LEC-LEC and CMTS-LEC rates are not indexed to the U.S. dollar and thus fluctuate based on the value of the Philippine Peso. Since the Asian financial crisis, the value of the Philippine Peso has substantially decreased relative to the U.S. dollar. For instance, before the Asian financial crisis, the LEC-LEC rates converted to about US$0.10. Now, the rates convert to about US$0.05.

Globe also pointed out that, while it has had some discussions with U.S. carriers since the issuance of the Bureau order, the parties ultimately find themselves faced with two dilemmas. Globe is caught between the conflicting orders of the Bureau

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[3] The non-discrimination requirement was the Philippine government's response to PLDT's initial refusal to interconnect with entrant LECs.

and the NTC. The Bureau order requires U.S. facilities-based carriers to stop payments to Globe until it "restores" AT&T's and MCI's circuits. The NTC order requires Globe to stop accepting traffic from U.S. carriers who do not pay for the termination of that traffic. The impact of these two orders is felt severely by Globe because of the $8 million owed to it by AT&T for traffic terminated prior to February 1, 2003 at undisputed rates.

Globe also raised the point that no carriers—U.S. or Philippine—had requested that the Bureau revert the U.S.-Philippines route to accounting rates, under the international settlements policy ("ISP"), as opposed to negotiated termination rates. Globe noted that reversion to such a regime actually has made it more difficult for U.S. and Philippine carriers to resolve their termination rate disputes. Greater efficiencies and consumer benefits accrue where competitive carriers can negotiate termination rates consistent with the cost structures of their particular networks. Globe noted that the pending rulemaking proceeding on reform of the ISP is a more appropriate forum in which to address these broad policy issues. Globe stressed that the Commission's review of the Bureau order should promote a commercially viable solution and should incorporates a competitive termination agreement not an accounting rate agreement.

Globe suggested that the FCC work with the NTC to adopt new orders that would permit the parties to come to a commercial solution. Globe also requested expedited Commission review of the Bureau's order. Globe noted that, while the Bureau issued its order two weeks after receiving the parties' pleadings, Globe's Application for Review now has been pending for over two months. In view of the fact that this is one of the few irritants in the otherwise excellent relations between the United States and the Philippines and in view of the significant issues and substantial amounts of money at stake, Globe urged the Commission to expeditiously act on its Application for Review.

Sincerely,
/s/Patricia Paoletta
Patricia Paoletta

Enclosures

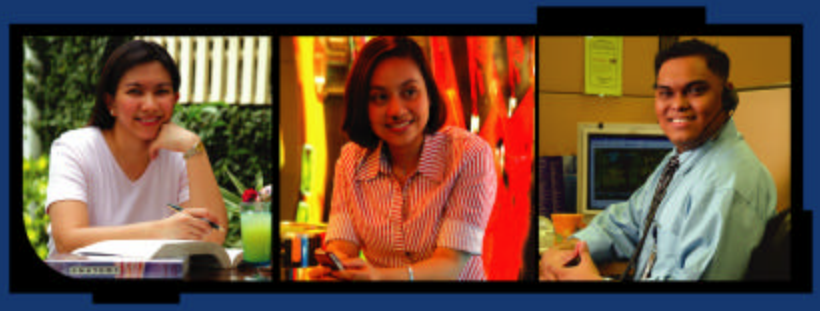
cc (w/encl.): Bryan Tramont
Jennifer Manner
Sam Feder

Paul Margie
Lisa Zaina
Trey Hanbury

ATTACHMENT A

Globe Telecom, Inc.

First Quarter 2003



What makes a good company great?
The people who stand by it.

Philippines: competitive landscape

GLOBE TELECOM, INC.

COMPANY	SERVICE AREAS	LEC	CMTS	IGF	IXC
Bayantel / RCPI	NCR B , Region 5	✓	✓	✓	✓
Digitel[1]	Luzon outside of NCR	✓	✓	✓	✓
Eastern Telecom	NCR A, Region 2	✓		✓	
Extelcom	Not yet assigned by NTC		✓		
Globe Telecom	NCR C, Regions 4B and 12	✓	✓	✓	✓
Islacom	Regions 6 – 8	✓	✓	✓	✓
Philcom	Regions 9B, 10 and 11B	✓		✓	
PT&T/Capwire	Region 4A	✓		✓	✓
Piltel	Regions 9A, 9B and 11A	✓	✓		✓
PLDT[1]	----------	✓		✓	✓
Smart	NCR D, Regions 1 and 3	✓	✓	✓	✓

[1]Not subjected to the service area scheme

The Philippine telecommunications industry today :

- **10 major LEC (Local Exchange Carrier), or fixed line, operators**
- **7 CMTS (Cellular Mobile Telephone System), or mobile, operators**
- **11 IGF (International Gateway Facility) operators**
- **8 IXC (Inter-Exchange Carrier), or “carriers’ carrier”, providers**

Globe Telecom: history and background

- **Full service telecommunications provider**
  - **Wireless contributed 90% of 1Q03 net revenues**
- **Leading wireless operator in the Philippines**
  - **Other services include wireline (voice and data) and carrier services**
- **Established in 1993 resulting from the partnership between Ayala Corporation and Singapore Telecom**
  - **In 2001, Globe acquired Islacom, and Deutsche Telekom became the 3rd Strategic Partner**
- **Exceptional shareholder support**

AYALA CORPORATION

Singapore Telecom

Deutsche Telekom Asia

Globe Telecom: licenses

GLOBE TELECOM, INC.

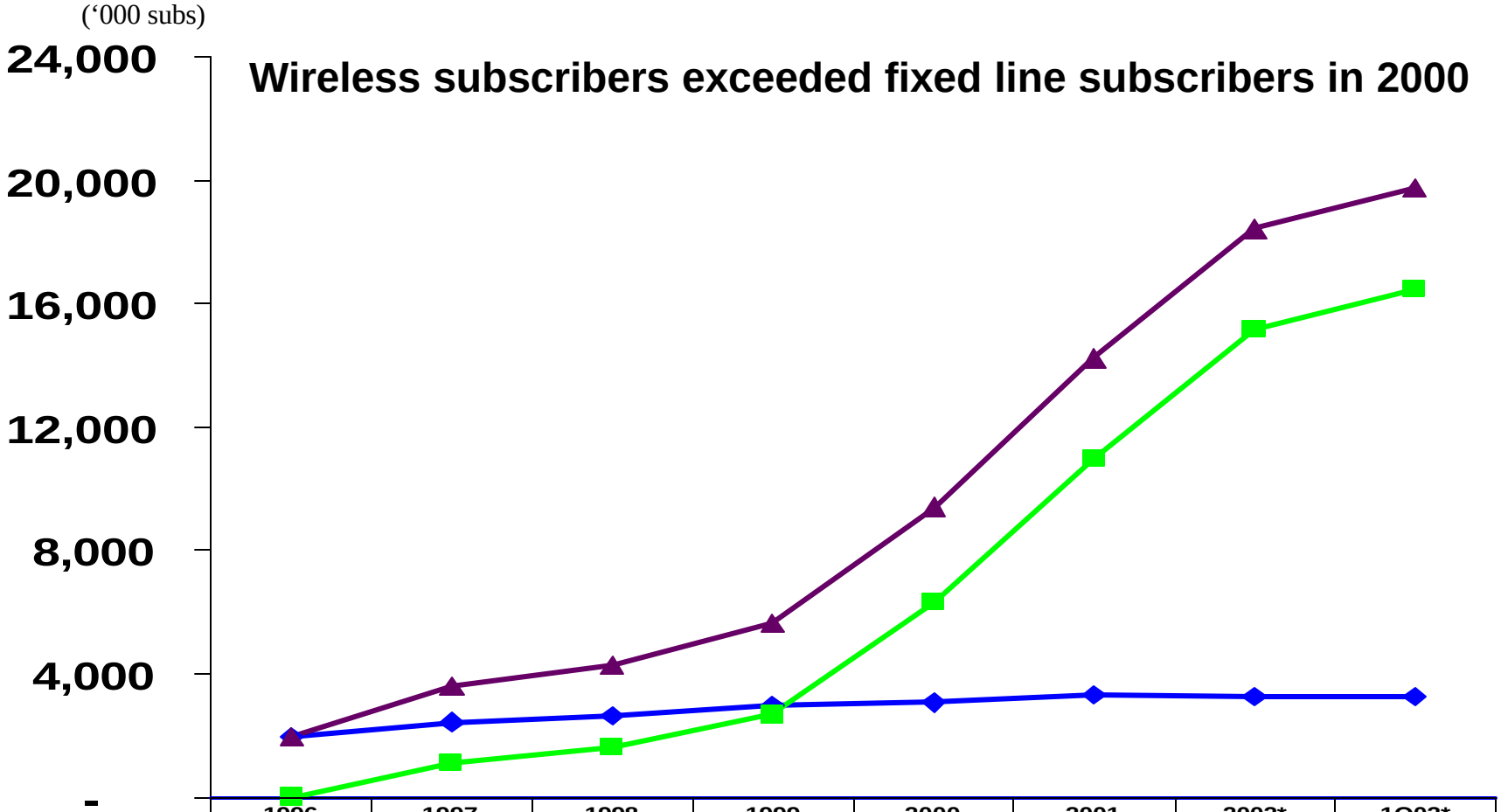
Service	Type of License	Date Issued or Last Extended	Expiration Date	Action Being Taken
Globe				
Wireless	CPCN[1]	22-Jul-02	24-Dec-30	No action required
Local wireline	CPCN[1]	22-Jul-02	24-Dec-30	No action required
International long	CPCN[1]	22-Jul-02	24-Dec-30	No action required
Interexchange carrier	CPCN[1]	14-Feb-03	24-Dec-30	No action required
VSAT	CPCN[1]	6-Feb-96	6-Feb-21	No action required
Islacom				
Wireless	CPCN[1]	22-Jul-02	22-Jul-17	No action required
Local Wireline	CPCN[1]	22-Jul-02	22-Jul-17	No action required
International long distance	CPCN[1]	22-Jul-02	22-Jul-17	No action required
Interexchange carrier	PA[2]	19-Jun-02	26-Sep-03	Application pending

[1] **Certificate of Public Convenience.** An authority from NTC to render specific types of communications services, premised on finding that a proposed service is for the public good and the applicant is technically, legally and financially capable of rendering that service. Term is co-terminus with the franchise term.

[2] **Provisional Authority.** Pending the issuance of a CPCN, the NTC may issue a PA. PAs are temporary licenses which permit an operator to construct its network and commence provision of services for a specified and extendable period.

Explosion in demand for connectivity

GLOBE TELECOM, INC.



	1996	1997	1998	1999	2000	2001	2002*	1Q03*
Wireline	1,962	2,456	2,657	2,992	3,082	3,298	3,281	3,266
Wireless	-	1,135	1,622	2,675	6,357	10,957	15,171	16,479
Total	1,962	3,591	4,279	5,667	9,439	14,255	18,453	19,745

** Figures for wireline, estimate only due to lack of information on small players*

Wireless: market players

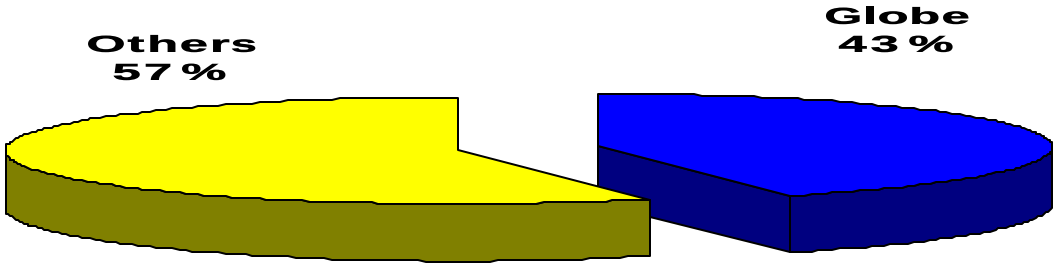
GLOBE TELECOM, INC.

Carrier (msubscribers)	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	1Q03
Globe Group	-	9	71	69	161	321	1,054	2,661	4,588	6,572	7,110
PLDT Group	75	156	323	640	845	1,168	1,482	3,515	6,369	8,599	9,369
Extelcom	21	44	100	73	129	133	140	181	-	-	-
Total	96	209	494	782	1,135	1,622	2,675	6,357	10,957	15,171	16,479

Wireless: 1Q03 market share

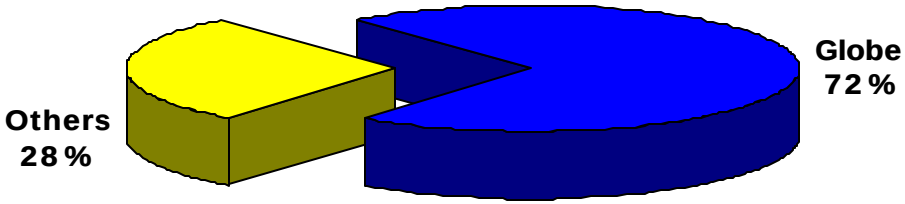
GLOBE TELECOM, INC.

Total Subscribers



16.5m

Postpaid Subs



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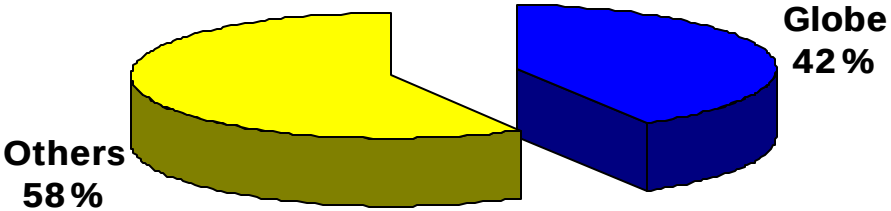
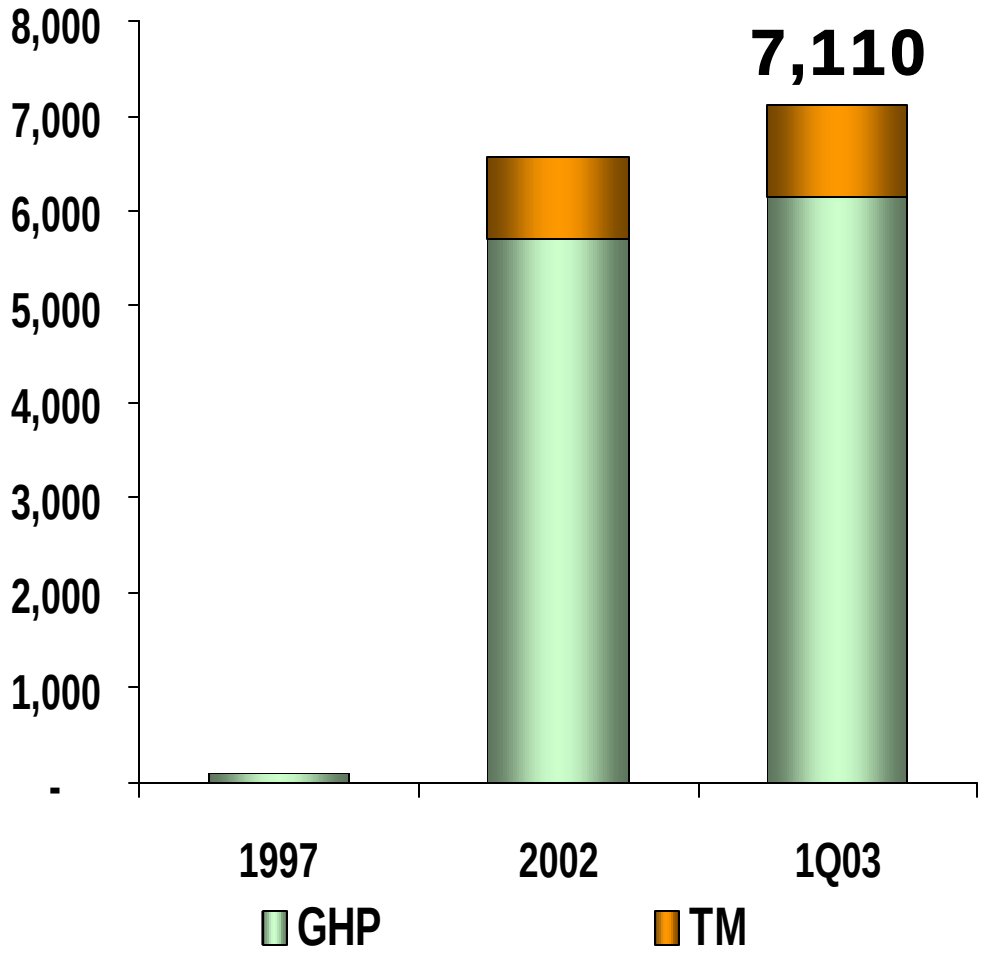
Prepaid Subs



15.7m

Wireless: operational highlights

Surge in Wireless Subscribers

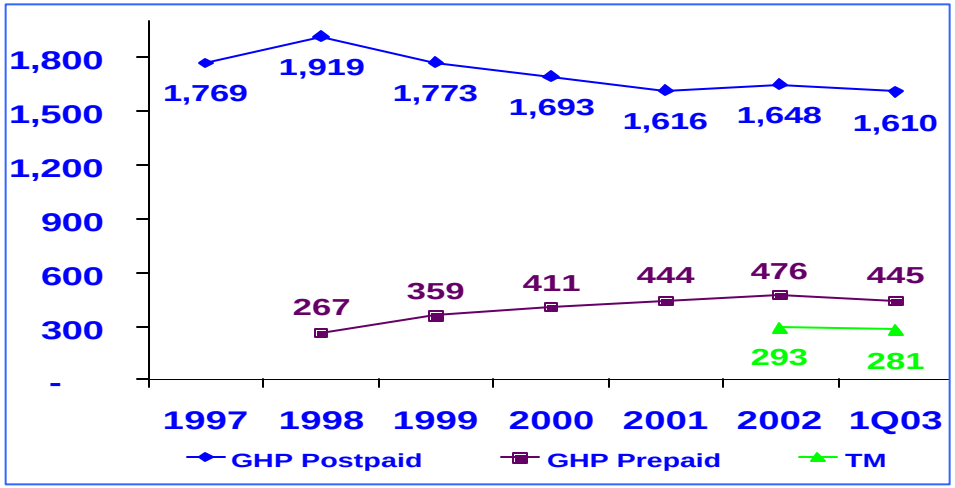


- **Wireless subscribers increased more than 70 times from 97,000 in 1997 to over 7 million today**
- **Touch Mobile launched in late 2001 already reached 1 million subscribers**

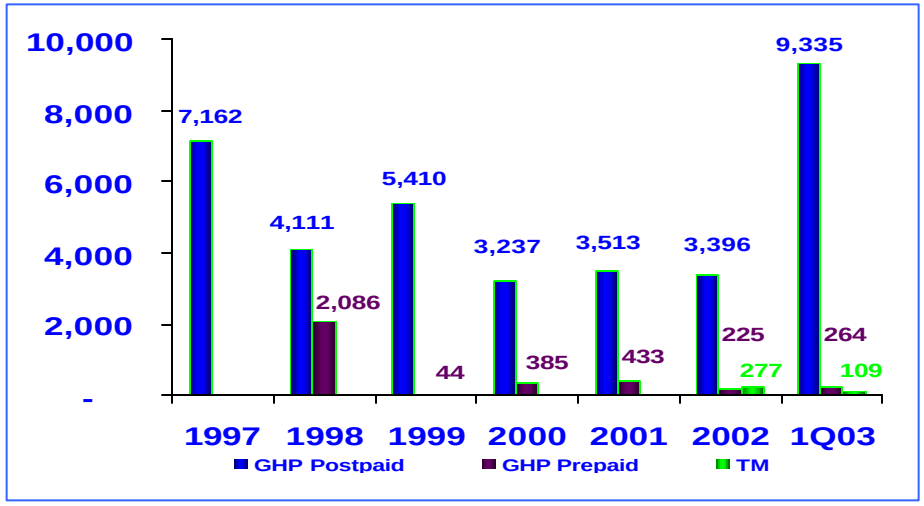
Wireless: operational highlights

GLOBE TELECOM, INC.

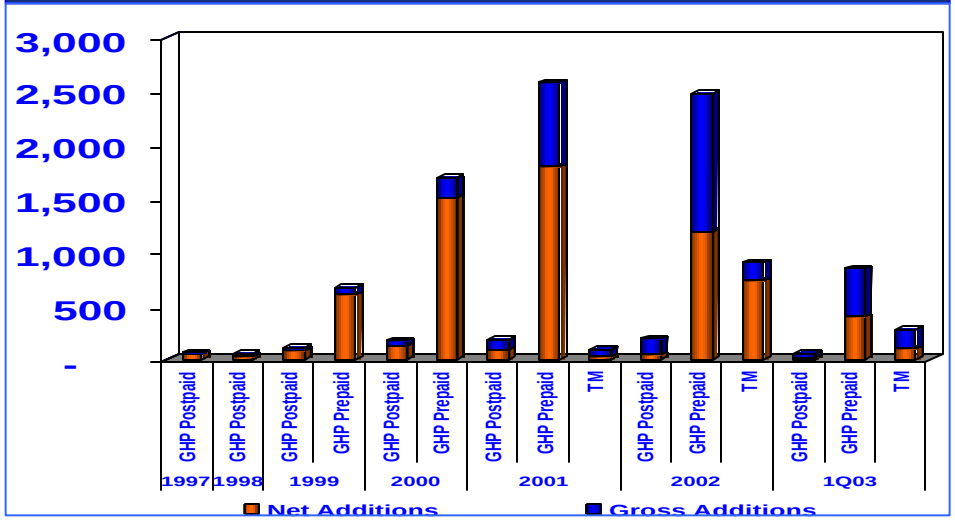
YTD ARPU



YTD SAC



Average Monthly Churn



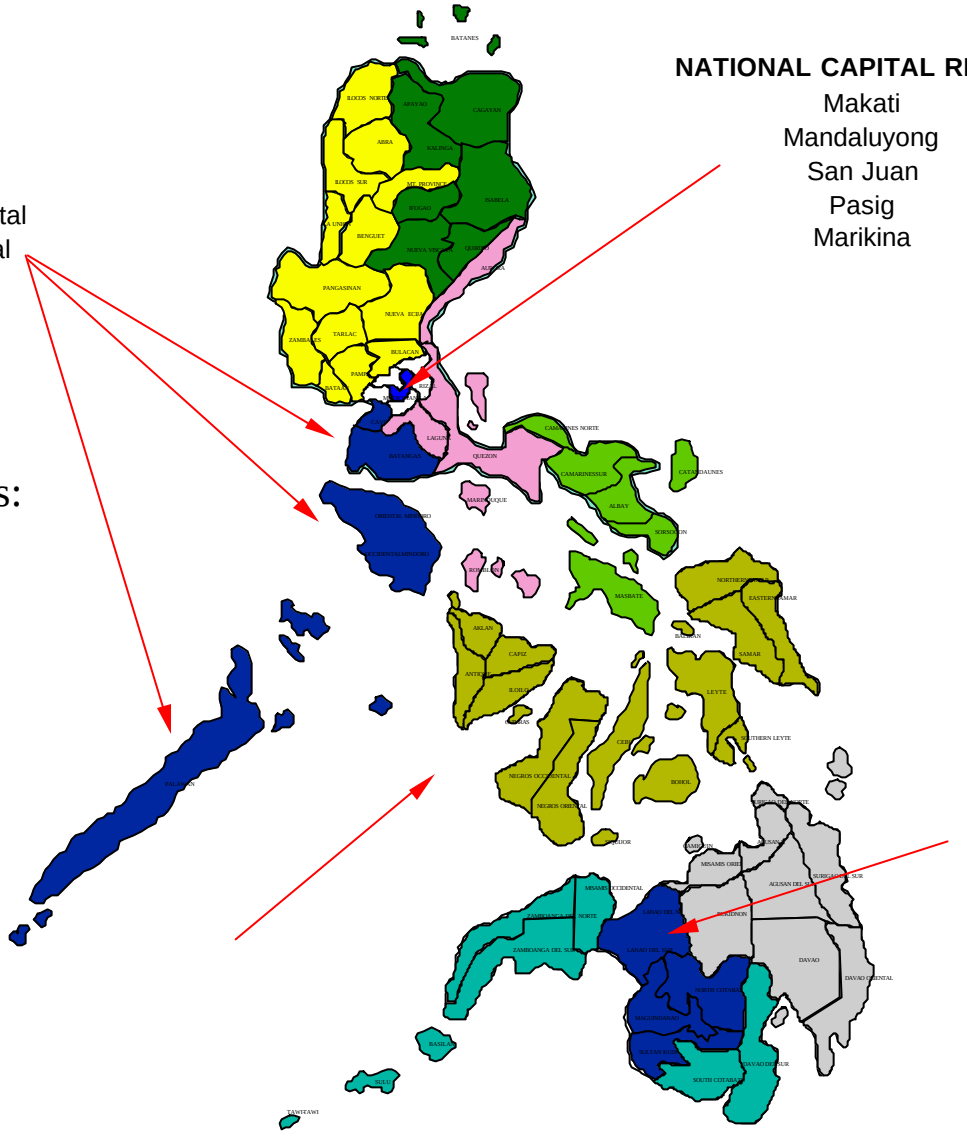
- ARPU fairly stable over the years
- Increased pressure on churn
- Mixed trend in SAC

LEC industry: service area scheme

GLOBE TELECOM, INC.

REGION IV-B
Cavite
Batangas
Mindoro Occidental
Mindoro Oriental
Palawan

NATIONAL CAPITAL REGION
Makati
Mandaluyong
San Juan
Pasig
Marikina



REGION 12
Lanao del Norte
Lanao del Sur
Maguindanao
Sultan Kudarat
North Cotabato
Iligan

Companies and build-out obligations:

	SMART	700,000
	ETPI	300,000
	GLOBE	700,000
	CAPWIRE	300,000
	ICC/BTH	300,000
	ISLACOM	700,000
	PILTEL	400,000
	PHILCOM	300,000

LEC industry: market share of players

GLOBE TELECOM, INC.

CARRIER	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002E	1Q03E
PLDT	873	985	1,197	1,519	1,663	1,597	1,762	2,000 *	2,097 *	2,118 *	2,087 *
Digitel	14	28	51	81	151	202	270	365	403	395	395
Bayantel			20	157	244	253	254	223	215	188	202
Globe				12	54	140	140	158	228 **	224 **	227 **
Islacom					25	75	186	150	**	**	** **
Philcom				5	36	37	42	57	50	50	50
PT&T				15	31	70	58	51	63	63	63
Piltel			42	63	69	76	78	*	*	*	*
Smart				1	85	108	107	*	*	*	*
Others	94	97	100	110	99	99	94	79	242	242	242
Total	**981**	**1,110**	**1,410**	**1,962**	**2,456**	**2,657**	**2,992**	**3,082**	**3,298**	**3,281**	**3,266**

*PLDT Group

** Globe Group

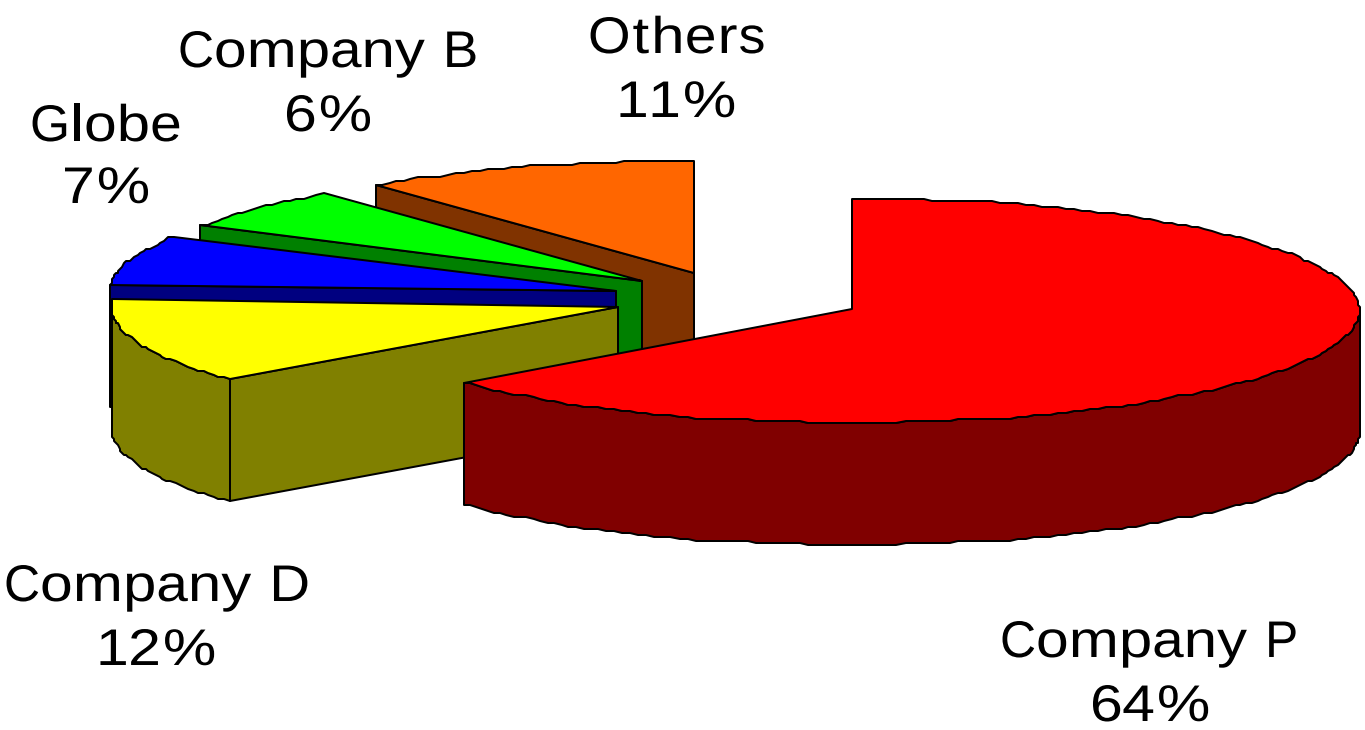
Digitel as of Dec-02

Philcom, PTT & Others assumed the same as FY2001 due to lack of info.

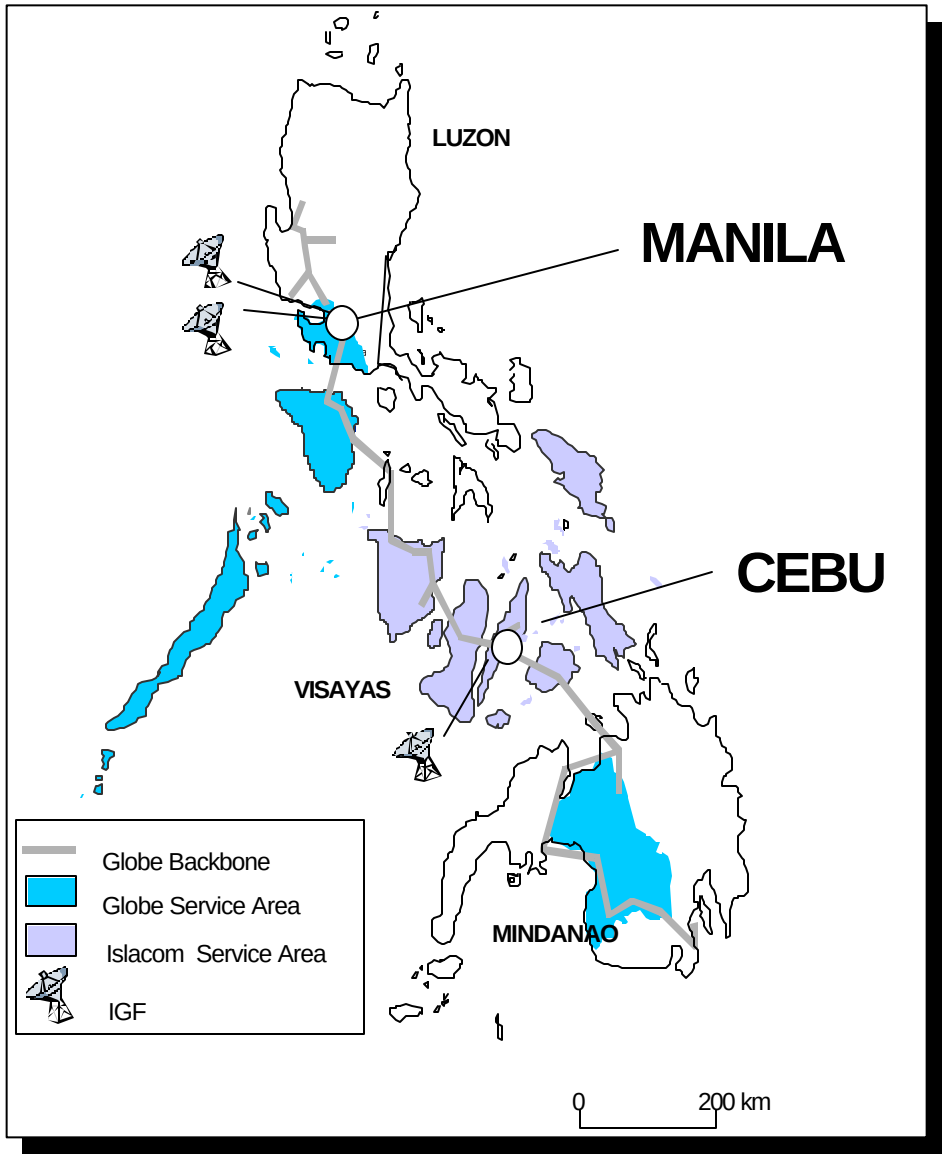
Sources: Company reports, NTC

LEC industry: 1Q03 market share

GLOBE TELECOM, INC.

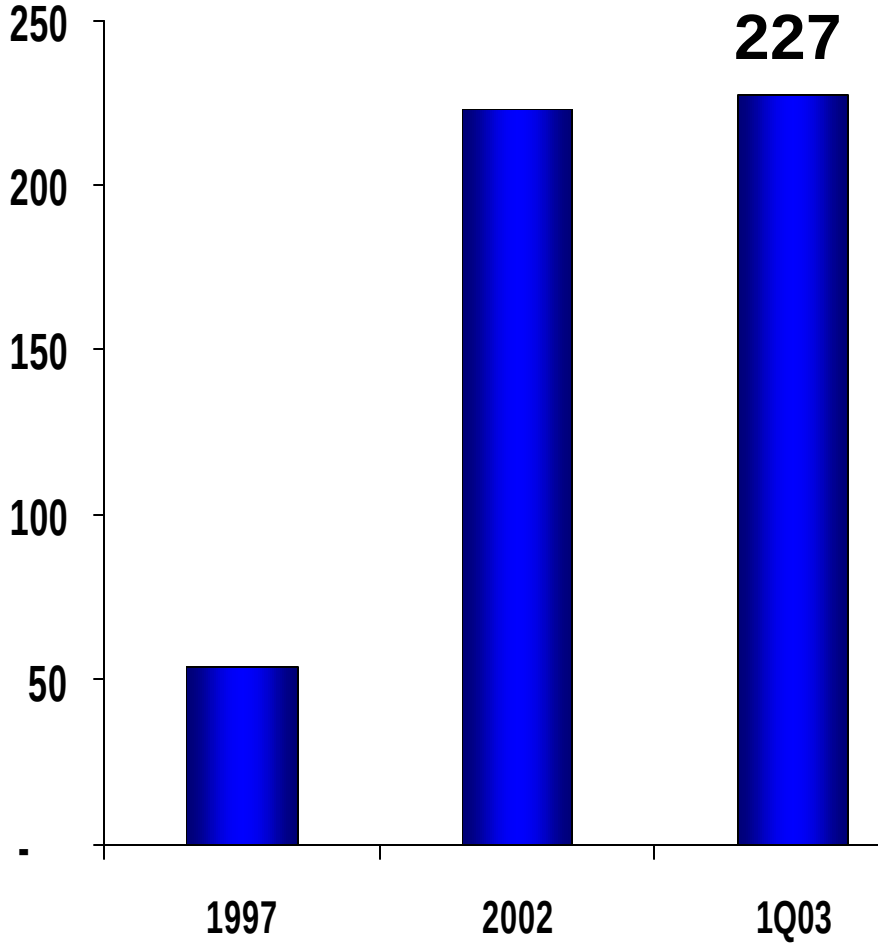


Globe/Isla LEC: footprint



- LEC service area virtually nationwide
- LEC service areas centered on two major Central Business Districts ("CBD") of Makati and Ortigas
- LEC service areas include high economic activity areas of NCR, South Luzon, Cebu
- Manila and Cebu account for:
  - 21% of population
  - 38% of GDP
  - 53% of SMEs nationally
  - 44 of top 50 Philippine companies
  - 66% of total lines in service

Wireline: operational highlights



- Despite the difficult investment thesis of the Wireline proposition, Globe managed to show some improvement in its operating results
  - Subscriber base increased from 224,000 in 2002 to over 227,000 in 1Q03
    - 74% were postpaid and 26% prepaid.
  - ARPU of wireline voice subscribers was at P1,259 in 1Q03, 7% higher than P1,172 for FY2002.
  - Churn was lower at 2.1% in 1Q03 from 2.8% for FY2002.

Globe Telecom: financial highlights

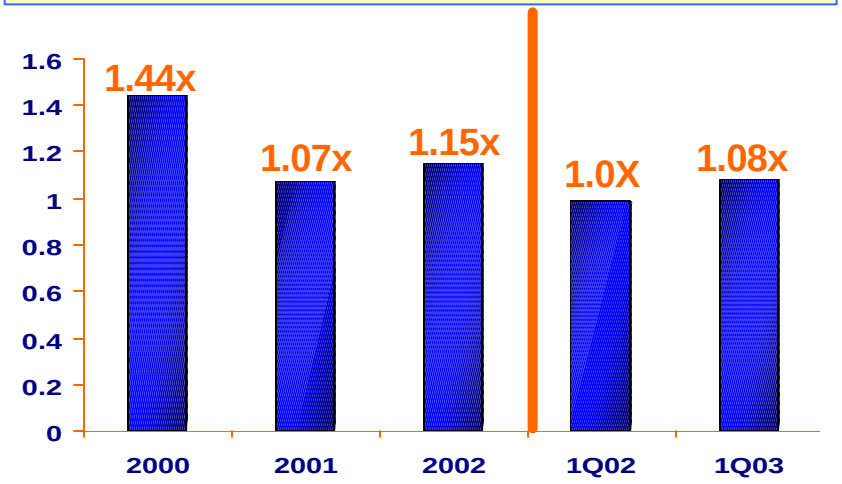
	1997	2002	1Q03
Revenues	P2.6bn	P45.8bn	P46.9bn*
EBITDA	P84m	P26.7bn	P27.8bn*
Net Income	(P870)m	P6.8bn	P8.0bn*

	1997	2002	1Q03
Assets	P16.3bn	P141.0bn	P142.7bn
PPE	P11.9bn	P96.3bn	P97.2bn
Debt	P6.2bn	P58.6bn	P57.2bn
Equity	P6.4bn	P51.1bn	P52.9bn

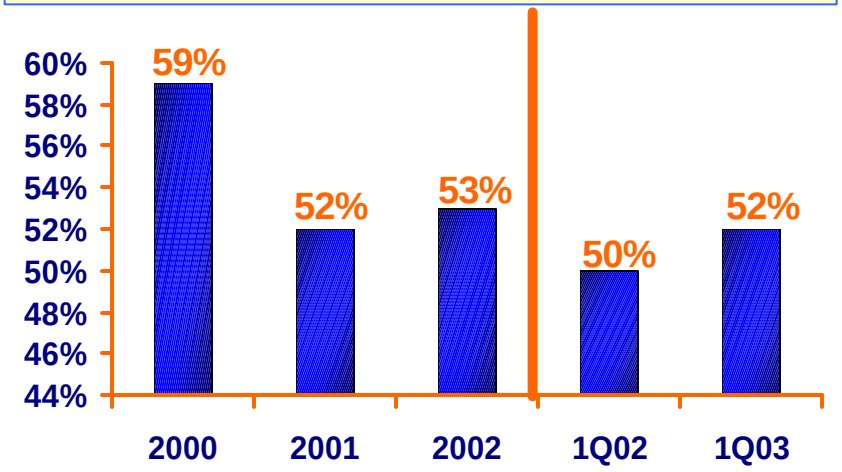
** Annualized*

Globe Telecom: stable leverage profile

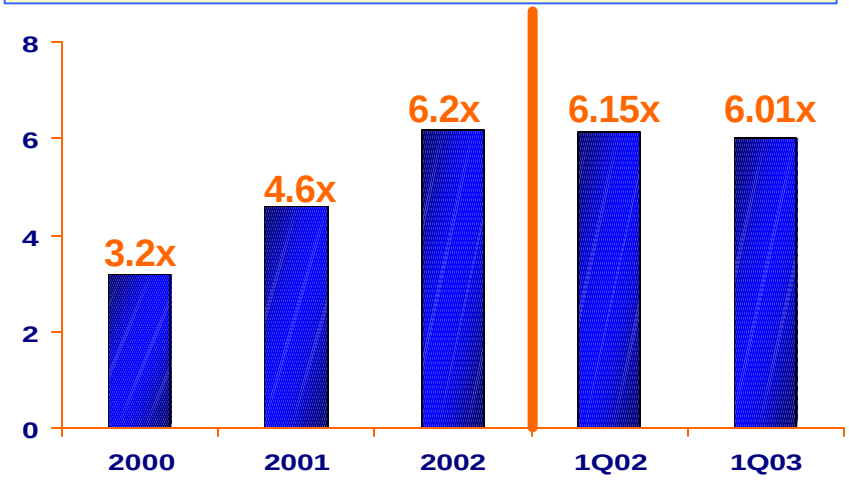
Gross Debt/Book Equity



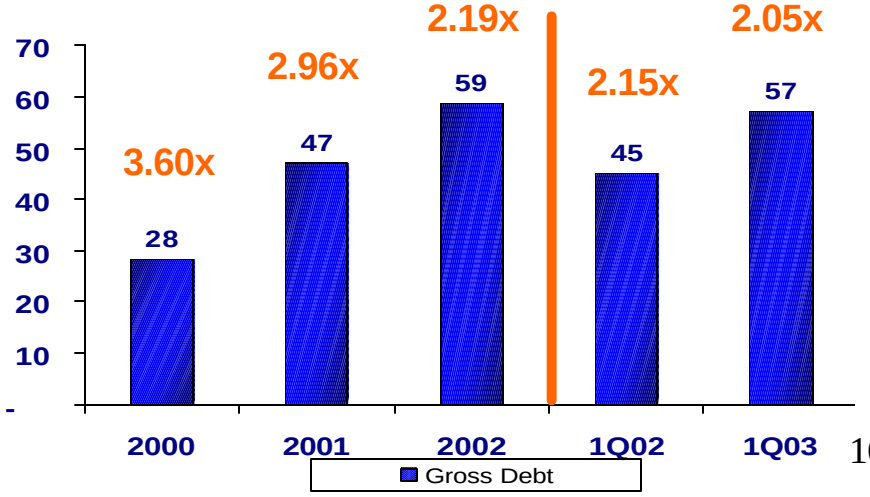
Gross Debt/Total Book Capitalization



Interest Cover



Gross Debt to EBITDA



Globe Telecom: continued investment

Continued network expansion

- Switch capacity for 8.7M subs
- Over 2,200 nationwide
- Network configured for GPRS transmission in Metro Manila and Metro Cebu
- Multi-service data network expansion

Managing network quality and capacity with sub growth

- Benefits of scalability of expansion

Globe Telecom: key challenges

- ⇨ **Competition**
- ⇨ **Operational Efficiency**
- ⇨ **Sustained Profitability**

ATTACHMENT B

JUNE 24TH GLOBE TELECOM MEETINGS WITH FCC

- The Bureau expanded the definition of whipsawing to non-dominant carriers in a competitive market, without evidence of collusion or retaliation.

- Even under the Bureau's expanded definition, AT&T was required to prove that the Philippine carriers conspired to combine their market positions to obtain rates that the carriers, acting individually, could not obtain and that they exercised combined market power to retaliate against AT&T when it refused to accede to the rate increase.

  - U.S. antitrust law requires evidence of collusion, rather than merely the presence of identical rates, to establish an anticompetitive conspiracy.

  - Globe Telecom offered U.S. carriers different rates than PLDT and BayanTel did.

	On-Net Fixed	Off-Net Fixed	On-Net Mobile	Off-Net Mobile
BayanTel	$0.125/min.	$0.125/min.	$0.165/min.	$0.165/min.
Globe	$0.120/min.	$0.125/min.	$0.160/min.	$0.165/min.
PLDT	$0.125/min.	$0.145/min.	$0.175/min.	$0.185/min.

  - Agreements AT&T cited, and on which Bureau relied, were domestic interconnection agreements between Philippine local carriers and Philippine international carriers, not an agreement among Philippine international carriers to raise termination rates for their foreign correspondents.

  - Globe did not retaliate against AT&T. Globe continued to terminate AT&T's on-net traffic but could not continue to terminate their off-net traffic in view of the $0.04/min. differential between the payments it would receive from them and the payments it is required to make to other Philippine carriers.

- ITU Recommendation D.140 permits consideration of the cost of access to national or local networks in establishing international termination rates. In other words, domestic or backhaul rates naturally set "price floors" for international termination rates.

- Uniform domestic interconnection rates are attributable to a combination of the Philippine build-out and non-discriminatory interconnection requirements.

- The Bureau acted outside its delegated authority by reverting an ISR route to the ISP, a novel result that was not requested by any party.

- These issues can be more appropriately addressed in the pending NPRM on ISP reform.

- More than two months ago, Globe Telecom asked for expedited review of a decision the Bureau took little more than two weeks to take.

ATTACHMENT C

INTERNATIONAL TERMINATION RATES ON THE U.S-PHILIPPINES ROUTE

Background

- AT&T and MCI, and a number of Philippine carriers, including Globe, are currently involved in a dispute over international termination rates for voice traffic. (Call center and data traffic between the U.S. and the Philippines is unaffected by this dispute.)

- Each of six Philippine carriers independently proposed to increase its termination rates effective February 1, 2003. The rates proposed by these carriers varied.

	On-Net Fixed	Off-Net Fixed	On-Net Mobile	Off-Net Mobile
BayanTel	$0.125/min.	$0.125/min.	$0.165/min.	$0.165/min.
Globe	$0.120/min.	$0.125/min.	$0.160/min.	$0.165/min.
PLDT	$0.125/min.	$0.145/min.	$0.175/min.	$0.185/min.

- Most carriers have accepted these rates. Indeed, excluding AT&T and MCI, all of Globe's foreign correspondents, including other U.S. carriers, have agreed to Globe's new rates.

- AT&T and MCI sought FCC intervention in the dispute on the grounds that the Philippine carriers had whipsawed them. According to AT&T, PLDT, Globe, Digitel, BayanTel, Smart and Subictel had colluded to uniformly raise international termination rates and then retaliated against AT&T by blocking its traffic when AT&T refused to agree to the new rates.

- The FCC's International Bureau accepted all of AT&T and MCI's allegations and found the six Philippine carriers guilty of whipsawing AT&T and MCI. To remedy this, the Bureau ordered all facilities-based U.S. carriers to suspend payments to the six Philippine carriers and reverted the U.S.-Philippines route back to the accounting rate regime by removing the route's ISR approval.

- Shortly after issuance of the Bureau Order, the Philippine regulator issued an order directing all Philippine carriers (1) not to accept traffic from U.S. carriers who do not pay for the termination of that traffic and (2) to take all steps to collect receivables in order to preserve the viability and efficiency of the Philippine telecommunications industry.

- The Philippine carriers have sought Commission review of the Bureau order.

- During her U.S. trip in mid-May, President Arroyo met with President Bush. During this meeting, she raised the dispute over international termination rates. Further, Ambassador Zoellick and Secretary Roxas separately met and discussed the dispute, among other things.

Globe's Position

- Globe did not whipsaw AT&T or MCI.
  - Globe did not coordinate its decision to raise international termination rates with any other Philippine carrier. The individually negotiated domestic interconnection agreements between the various Philippine carriers were approved by the Philippine regulator and, under U.S. antitrust law, cannot alone demonstrate the existence of a conspiracy.
  - Globe did not retaliate against AT&T or MCI. Globe continued to terminate their on-net traffic but could not continue to terminate their off-net traffic in view of the $0.04/min. differential between the payments it would receive from them and the payments it is required to make to other Philippine carriers.
- Globe's proposed rates are cost-justified and below the existing FCC ($0.19/min.) and ITU benchmarks ($0.23/min.).
  - Globe's costs have risen. In recent years, it has experienced increased costs of operation attributable to capital expenditures made to satisfy mandatory build-out requirements, increased utilities costs and inflation.
  - The devaluation of the Philippine Peso has increased Globe's costs to service its debt.
  - The global telecommunications meltdown has affected Globe and other Philippine carriers.
- The Bureau's order gives AT&T and MCI an unfair competitive advantage over other international carriers.
  - U.S. carriers already retain 61% of what their customers pay them for calls to the Philippines. This is higher than the 58.4% of customer payments retained by U.S. carriers for calls to all foreign points. AT&T itself retains 78.1% of what its customers pay it for calls to the Philippines.
  - AT&T and MCI are traffic wholesalers on the U.S.-Philippines route. If the Philippine carriers offer them more favorable rates than they have offered other international carriers, AT&T and MCI will obtain an unfair competitive advantage over other wholesalers and international carriers.

Conclusion

- The parties have reached an impasse. Under the Bureau Order, AT&T and MCI cannot pay the Philippine carriers for termination of their traffic. Under the Philippine regulator's order, the Philippine carriers cannot accept AT&T's and MCI's traffic until they are able to pay them for terminating that traffic.

ATTACHMENT D

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS
NATIONAL TELECOMMUNICATIONS COMMISSION
BIR Road, East Triangle, Diliman, Quezon City

MEMORANDUM CIRCULAR

No. 09-07-2002

SUBJECT: IMPLEMENTING RULES AND REGULATIONS (IRR) FOR SPECIFIC GUIDELINES FOR COMPETITIVE WHOLESALE CHARGING FOR INTERCONNECT SERVICES

PREAMBLE

WHEREAS, The State recognizes the vital role of telecommunications in nation-building and economic development and in its desire to attain universal access, it shall promote the rapid expansion of telecommunications services in all areas of the Philippines in order to maximize the use of all available telecommunications facilities, and to ensure that every user of the public telecommunications shall have access to such facilities at a mandated standard of service and at reasonable prices;

WHEREAS, under Republic Act 7925, otherwise known as the Telecommunications Policy Act of 1995, the National Telecommunications Commission is mandated to ensure equity, reciprocity and fairness in adopting an access charge formula or revenue sharing agreement between interconnecting public telecommunications entities;

WHEREAS, Memorandum Circular No. 14-7-2000, issued by the Commission on July 14, 2000, provides a new regulatory framework for interconnection of the networks of public telecommunications entities to address the legal, economic and technical constraints that continue to hamper the continued growth and development of the sector,

WHEREAS, under the said circular, the Commission is tasked to establish and prescribe wholesale pricing principles and guidelines in order for the PTEs to provide telecommunications services at prices that are transparent, reasonable and having regard to economic feasibility;

WHEREAS, under the said circular, the Commission is tasked to undertake mediation in a negotiation where the public interest warrants, or to arbitrate a dispute arising from a failure in negotiation between PTEs regarding interconnection.

WHEREAS, the Commission proposes to implement a smooth progression from the existing interconnect arrangements to the cost based interconnect arrangements envisaged under Memorandum Circular No. 14-7-2000.

WHEREAS, the provisions set out in these implementing rules and regulations represent the first step in moving towards cost based interconnect, by establishing fair and consistent charging principles which take into account the costs of providing the services.

WHEREFORE, the Commission, by virtue of the powers vested upon it by law, does hereby promulgate the following implementing rules and regulations:

Article I
APPLICABILITY OF THE PROVISIONS

Section 1 These rules shall be applicable to all duly authorized public telecommunications entities (PTEs) as defined in R.A. 7925.

Article II
DEFINITION OF TERMS

Section 2. The definitions provided in Section 2 of Memorandum Circular No. 14-7-2000 and Section 2 Memorandum Circular No. 6-9-2001 are carried forward and are applicable to these implementing rules and regulations. In addition, the following words and phrases shall have the meaning assigned to them unless the context otherwise requires:

a. **Basic Interconnect Service** – A fixed or mobile network interconnect service supplied by a PTE which provides the signaling and functionality to connect calls between an end-user and the point of interconnect to another PTE for voice or data calls in either direction

b. **Ancillary Interconnect Service**- Any interconnect service serving as supplement to basic interconnect service.

c. **Cost Based Interconnect Charges** – Interconnect charges which are calculated using appropriate cost principles to be determined by the Commission.

d. **Retail Service** - A Telecommunications Service provided by PTEs to End Users.

Article III
GENERAL PRINCIPLES RELATING TO THE CHARGES FOR INTERCONNECT SERVICES

Section 3. The charges, terms and conditions for the supply of Basic and Ancillary Interconnect Services shall be pursued through bilateral negotiations subject to the following principles.

a) The charges for Interconnect Services shall be consistent with the principles and requirements set out in Section 18 of RA7925 and Sections 5, 10, 11, 12, Article XI and Article XII of MC 14-7-2000.

b) The charges for Interconnect Services should be non-discriminatory, meaning:

(i) At a particular POI, the charges offered by a PTE to other PTEs, should be the same for all PTEs where they are utilizing the same infrastructure and functionality

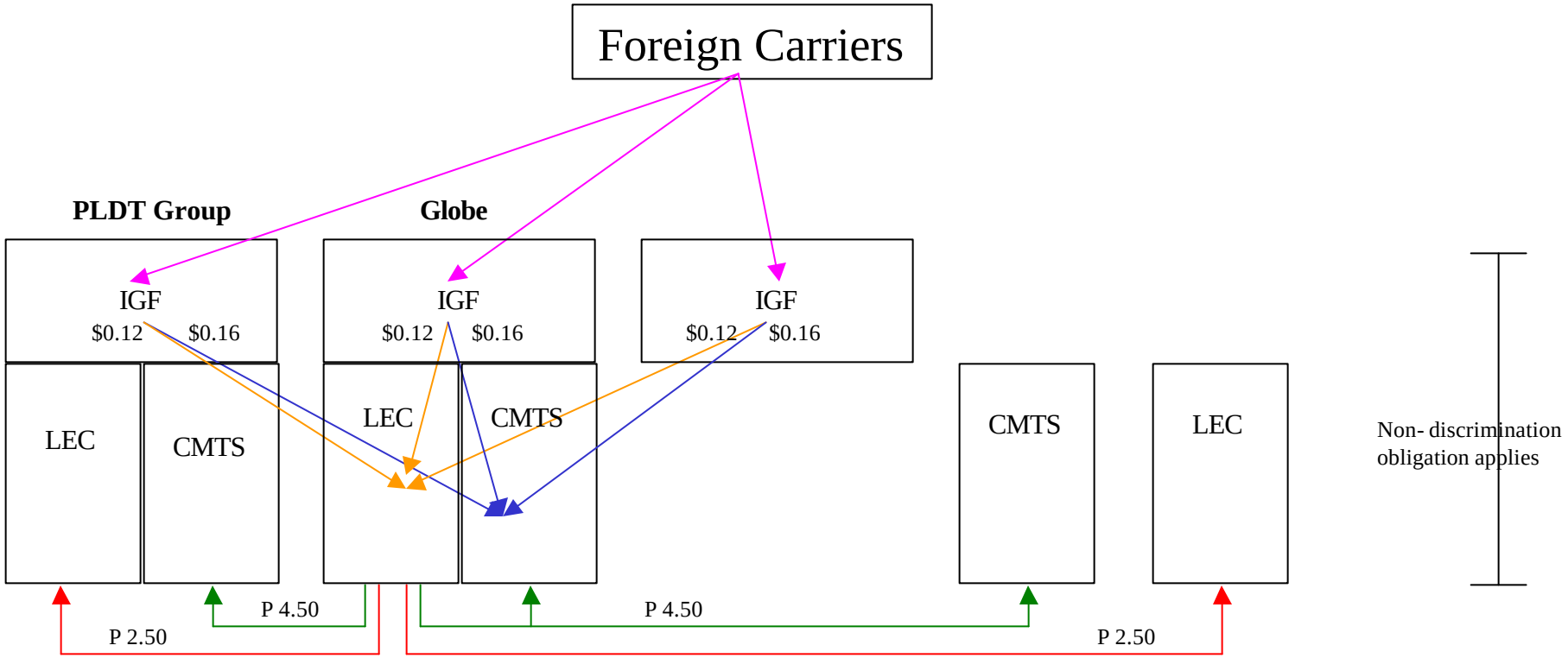
ii) Where a PTE with end-user access infrastructure at a particular POI offers to another PTE a volume discount, this same volume discount shall be offered to all other PTEs who are interconnected or who seek interconnection at the same POI irrespective of whether they have competing end-user access infrastructure in the same area or not.

c) The charges that a PTE applies to other PTEs for equivalent Interconnect Services and/or Retail Services must not be higher than the internal transfer prices for Interconnect Services and/or Retail Services applied by it to its own internal businesses.

d) A PTE must not make the supply of an Interconnect Service conditional upon the supply of another service, facility or equipment. Factors which may have the effect of making supply conditional shall include the following:

(i) contractual terms or conditions;
(ii) where the charge for a bundled offering of two or more services is less than the sum of the charges for the individual component services, facilities and/or equipment to other PTEs, end users or itself.

e) Contracts and agreements between PTEs for the supply of Interconnect Services shall not include clauses which unreasonably restrict an interconnected PTE from directing traffic to another PTE in the same or another area. As a general principle, clauses in contracts and agreements which restrict interconnected PTEs from exercising choice of supply between PTEs for origination and termination of telecommunications traffic shall require the approval of the Commission to be binding. The Commission will only approve such contracts upon demonstration by the PTEs that these are done in the interest of public service.

ATTACHMENT E

Domestic Interconnection Regime In the Philippines