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January 5, 2004

Ms. Gloria Blue  
Executive Secretary  
Trade Policy Staff Committee  
Attn: Section 1377 Comments  
Office of the U.S. Trade Representative  
600 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20508

Dear Ms. Blue:

On behalf of BellSouth Corporation ("BellSouth") we are filing these comments in response to the December 8, 2003 Federal Register Request for comments pursuant to Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (68 Fed. Reg. 68444). That Notice requests comments on the operation and effectiveness of the WTO Basic Telecommunications Agreement and other agreements affecting market opportunities for telecommunications products and services of the United States. BellSouth, in this submission, discusses the obligations of Ecuador under various agreements, including the WTO Reference Paper on Basic Telecommunications, the Andean Trade Preferences Act, as amended, and the U.S.-Ecuador Bilateral Investment Treaty.

By way of background, BellSouth has invested half a billion dollars to do business in the Ecuadorian cellular market, where we operate as BellSouth Ecuador. Until recently, there has been one other private cellular competitor in Ecuador, as well as two state-owned wireline operators, Andinatel and Pacifictel. In February 2003, the Government of Ecuador awarded a third cellular license to Telesca, a joint venture owned by Andinatel and Pacifictel, which is now a direct competitor to BellSouth Ecuador in the cellular sector.

The introduction of a new competitor with the advantages of government ownership in Ecuador presents serious concerns for our company. It represents the real and troubling prospect of a lack of independence between the regulator and our new competitor -- a prospect that seems to have already begun to manifest itself to our detriment. We are finding that procedural hurdles to doing business in that country have become more the rule than the exception. BellSouth Ecuador's massive investment and current financial exposure in the Ecuadorian cellular marketplace was predicated on the understanding that the market would be made open and more competitive for private firms, and that doing so would benefit investors as well as consumers. The current model appears to contradict these understandings and economic objectives, and may subject our investment to additional, unwarranted risk.

**Regulatory entities in Ecuador are permitting state-owned telecommunication operators not to comply with (i.e., stop paying) their contractual interconnection obligations to BellSouth without any legal basis for doing so.**

Pacifictel, which has a regional monopoly to provide wireline telephony, has outstanding debts to BellSouth Ecuador of more than US \$7.5 million for cellular interconnection fees for the period July 2002 to August 2003. It should be noted that beginning in October 2003, Pacifictel began issuing weekly payments to BellSouth between U.S. \$150,000 to US \$200,00; however, this amount is insufficient to pay BellSouth for the ongoing monthly interconnection fees, much less to cancel the historical debt owed to BellSouth. Furthermore, while BellSouth is contractually entitled to discontinue interconnection service to Pacifictel, Suptel has verbally opposed BellSouth's efforts to cancel the interconnection service, forcing BellSouth to continue to provide service and incur even greater costs.

Though we continue to pursue a fair resolution of this matter with Pacifictel and the regulators, Pacifictel claims it lacks the funds to honor its obligations to BellSouth Ecuador -- a fact that is interesting in contrast to Pacifictel's announcement that it has had a positive net income of US \$14 million in the first semester of 2003 and has expanded operations into other lines of business in order to compete against BellSouth Ecuador's mobile services.

We view it imperative that Pacifictel honor its contractual obligations and commit in writing to a settlement agreement with defined terms and conditions for repayment of its accumulated debt to BellSouth. In addition, Pacifictel should resume regular payments on a monthly basis for continuing traffic, according to the 1999 contract between Pacifictel and BellSouth. We note in particular that the failure to make such payments would appear inconsistent with Ecuador's obligations pursuant to the U.S.-Ecuador Bilateral Investment Treaty.

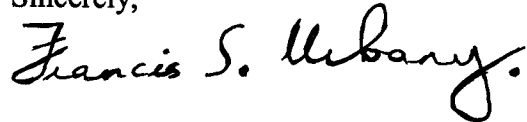
BellSouth Ecuador hopes to see the emergence of a more transparent regulatory regime in the Ecuadorian telecommunications market. It is clear from what we have witnessed recently that, with respect to the existing state-owned wireline companies and the new state-owned cellular venture in Ecuador, true and meaningful competitive safeguards are required to ensure that Ecuador adheres to the principles of the WTO Reference Paper on Basic Telecommunications. Absent explicit safeguards against anticompetitive practices, our company may be in the undesirable position of being forced to subsidize our own competitors, who themselves appear to have access to terms and processes that create imbalance in the marketplace, harming our competitive interests and those of the Ecuadorian consumers as well.

BellSouth believes that the practices described above also raise questions concerning Ecuador's compliance with key ATPA eligibility criteria, as discussed in our submission of November 7, 2003. Further and as noted in this submission, BellSouth believes that Pacifictel's failure to make the payments due and owing raises questions about its adherence to the existing obligations of the U.S.-Ecuador Bilateral Investment Treaty as well as whether Ecuador is prepared to enter into negotiations for, and adhere to the obligations of, an Andean FTA.

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We appreciate the opportunity to share these experiences within your Office as well as with other U.S. Government members, and would be pleased to provide any additional information you seek to complete your assessment of the situation in Ecuador. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Francis S. Urbany". The signature is written in a cursive style with a large, prominent "F" and "U".

Francis S. Urbany