

Hearing Date: January 15, 2004 at 10:00 a.m.  
Objections Due: January 9, 2004 at 4:00 p.m.

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	:	X
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Allegiance Telecom, Inc., <u>et al.</u> ,	:	Chapter 11 Case No.
	:	03-13057 (RDD)
	:	
Debtors.	:	Jointly Administered
	:	X

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**SUPPLEMENT TO MOTION OF THE DEBTORS FOR AN  
ORDER PURSUANT TO SECTION 1121(d) OF THE BANKRUPTCY  
CODE EXTENDING THE EXCLUSIVE PERIODS DURING  
WHICH THE DEBTORS MAY FILE A CHAPTER 11 PLAN OF  
REORGANIZATION AND SOLICIT ACCEPTANCE THEREOF**

TO THE HONORABLE ROBERT D. DRAIN,  
UNITED STATES BANKRUPTCY JUDGE:

Allegiance Telecom, Inc. and its direct and indirect subsidiaries, as debtors and debtors in possession (collectively, “Allegiance” or the “Debtors”), by this supplement (the “Supplement to the Original Exclusivity Motion”) to the Original Exclusivity Motion (as defined below), respectfully represent:

**Original Exclusivity Motion**

1. On May 14, 2003 (the “Commencement Date”), each of the Debtors commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). In accordance with section 1121 of the Bankruptcy Code, the Debtors maintained the exclusive right to file a chapter 11 plan of reorganization (the “Exclusive

Filing Period”) until September 11, 2003 and the exclusive right to solicit acceptances of such plan (the “Exclusive Solicitation Period,” and together with the Exclusive Filing Period, the “Exclusive Periods”) until November 10, 2003.

2. On August 22, 2003, prior to the expiration of the Exclusive Filing Period, the Debtors filed that certain Motion of the Debtors for an Order Pursuant to Section 1121(d) of the Bankruptcy Code Extending the Exclusive Periods During which the Debtors May File a Chapter 11 Plan of Reorganization and Solicit Acceptance Thereof (the “Original Exclusivity Motion”). In the Original Exclusivity Motion, the Debtors sought to extend (a) the Exclusive Filing Period through and including December 15, 2003 and (b) the Exclusive Solicitation Period through and including February 9, 2004.

3. On September 3, 2003, this Court entered a bridge order (the “Bridge Order”) extending the Exclusive Filing Period until the Court had made a final determination on the Original Exclusivity Motion. The Original Exclusivity Motion was set for a hearing (the “Hearing”) on September 4, 2003 at 10:00 a.m., prevailing Eastern Time. The Hearing was subsequently adjourned seven separate times through stipulations, dated September 3, 2003, September 15, 2003, September 25, 2003, October 7, 2003, October 22, 2003, November 10, 2003 and November 19, 2003, respectively, among the Debtors, the statutory committee of unsecured creditors appointed in the Debtors’ chapter 11 cases (the “Creditors’ Committee”) and the Debtors’ prepetition lenders (the “Prepetition Lenders”).<sup>1</sup>

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<sup>1</sup> The stipulation entered by the Court on November 19, 2003 specifically provides that, notwithstanding the Debtors’ request in the Original Exclusivity Motion to extend the Exclusive Filing Period through and including December 15, 2003, the Bridge Order, which extends the Exclusive Filing Period until the Court has made final determination on the Original Exclusivity Motion, shall apply and be in effect from and after December 15, 2003.

4. Subsequently, the Debtors, the Creditors' Committee and the Prepetition Lenders have agreed, subject to Court approval, to adjourn the Hearing to January 15, 2004. In that regard, and in connection with this Supplement to the Original Exclusivity Motion, contemporaneously herewith, the Debtors intend to submit to the Court a modified bridge order that takes into account the modifications made herein and provides for the adjournment of the Hearing to January 15, 2004 (the "Modified Bridge Order").

#### **The Debtors' Progress Toward a Successful Restructuring**

5. Since the filing of the Original Exclusivity Motion, the Debtors have made significant progress in these chapter 11 cases. Specifically, the Debtors (a) have been consulting – and continue to consult – with the Prepetition Lenders and the Creditors' Committee regarding the status of and developments in these chapter 11 cases, (b) developed their long-term strategic business plan for a reorganized Allegiance, (c) commenced and substantially completed meaningful negotiations with the Prepetition Lenders regarding the terms of a stand-alone restructuring plan and (d) commenced the process of negotiating a proposed sale transaction.

#### ***Negotiations Regarding a Stand-Alone Restructuring Plan***

6. Shortly after the Commencement Date, the Debtors commenced negotiations with the Prepetition Lenders regarding a stand-alone restructuring of the Debtors' businesses. In that regard, on June 11, 2003, the Debtors provided the Prepetition Lenders with a term sheet for a stand-alone restructuring, which was intended to act as the foundation for a chapter 11 plan of reorganization. In connection with the discussions regarding a stand-alone restructuring plan, the Prepetition Lenders requested that the Debtors retain a chief restructuring officer to (a) assist the Debtors in the restructuring of their businesses operations and (b) prepare, together with the management team, a comprehensive business plan. After extensive discussions with the Prepetition Lenders and significant internal consideration, the Debtors decided to retain

an operational restructuring firm. On June 16, 2003, the Debtors engaged Impala Partners, LLC (“Impala”) as their chief restructuring officer. Impala, together with the Debtors’ management team, began preparing the Debtors’ strategic long-term business plan. The Prepetition Lenders were reluctant to engage in meaningful plan negotiations until after the Debtors’ business plan was substantially complete.

7. From and after the time Impala was retained by the Debtors, the Debtors’ management team and advisors (including Impala) communicated and consulted with the Prepetition Lenders and the Creditors’ Committee via weekly conference calls, follow up telephonic conversations, face-to-face meetings and impromptu discussions. As noted below, the Debtors’ management team and advisors continue to communicate and consult with the Prepetition Lenders and the Creditors’ Committee on the status of these cases and developments concerning the proposal and filing of a chapter 11 plan.

8. Notably, on July 30, 2003, the Debtors’ management team and Impala met with the Prepetition Lenders and provided them with an update on the Debtors’ progress with respect to the preparation of the business plan and the significant and beneficial operational changes and cost cutting measures that the Debtors had implemented. On July 31, 2003, the Debtors’ management and Impala made a similar presentation to the Creditors’ Committee.

9. On (a) September 19, 2003 and (b) September 22, 2003, *after the filing of the Original Exclusivity Motion*, the Debtors’ management team and Impala separately met with the Prepetition Lenders and the Creditors’ Committee to provide both constituencies with the proposed business plan for a reorganized Allegiance. Thereafter, the Debtors and the Prepetition Lenders commenced meaningful negotiations over the terms of a stand-alone restructuring plan.

10. After extensive negotiations, the Debtors and the Prepetition Lenders substantially agreed to the terms of a stand-alone restructuring plan. Thereafter, the Debtors presented the plan to the Creditors' Committee to garner its support therefor. The Debtors, however, were unable to obtain the support of the Creditors' Committee for the stand-alone plan of reorganization.

11. In an effort to find a plan alternative that might win the joint support of the Prepetition Lenders and the Creditors' Committee, the Debtors continued to investigate their options for selling their businesses.

***Negotiations Regarding a Potential Sale of the Debtors' Businesses***

12. Prior to and during the course of their negotiations with the Prepetition Lenders regarding the stand-alone restructuring, the Debtors received varying degrees of interest from third parties regarding a potential purchase of substantially all of their businesses. In that regard, the Debtors established a process to enable interested parties to conduct business and legal due diligence in connection with a potential sale transaction. In the middle of October, after consulting with the Prepetition Lenders and the Creditors' Committee, the Debtors determined it was in the best interests of their estates to authorize their management team and professionals to commence negotiations regarding a potential sale transaction (while finalizing the negotiations with the Prepetition Lenders regarding the stand-alone restructuring).

13. Currently, the Debtors are (a) negotiating potential sale transactions with numerous parties and (b) evaluating the value and conditionality of potential sale transactions in comparison with (i) other potential sale transactions and (ii) the stand-alone restructuring plan (as well as certain potential modifications thereto). These negotiations and evaluations are being conducted in consultation with the Prepetition Lenders and the Creditors' Committee. While the Debtors have made significant progress in selecting the most appropriate means for emerging

from chapter 11, due to the complexities involved in the negotiations and certain business arrangements between the Debtors and third parties, additional time is needed before the Debtors will be in a position to file a chapter 11 plan.

14. In light of the foregoing, the Debtors are filing this Supplement to the Original Exclusivity Motion to modify the requested extensions of the Exclusive Periods in the Original Exclusivity Motion from December 15, 2003 for the Exclusive Filing Period and February 9, 2004 for the Exclusive Solicitation Period, respectively, to and including March 15, 2004 for the Exclusive Filing Period and May 14, 2004 for the Exclusive Solicitation Period, respectively. As noted above, the Modified Bridge Order presented to the Court contemporaneously herewith will be modified to take into account (a) the modifications to the Original Exclusivity Motion as set forth in this Supplement to the Original Exclusivity Motion and (b) the adjournment of the Hearing to January 15, 2004.

#### **Relief Requested**

15. By this Supplement to the Original Exclusivity Motion, the Debtors seek entry of an order, pursuant to section 1121(d) of the Bankruptcy Code, extending (a) the Exclusive Filing Period to March 15, 2004 and (b) the Exclusive Solicitation Period to May 14, 2004. These extensions are intended to provide the Debtors with sufficient time to formulate and file a consensual plan of reorganization.

16. All applicable authority supporting the relief requested herein is set forth in the Original Exclusivity Motion.

#### **Cause Exists to Extend the Exclusive Periods**

17. In the Original Exclusivity Motion, the Debtors sought extensions of the Exclusive Periods because the Debtors required time beyond the statutory deadlines to resolve certain critical business issues and formulate and negotiate a consensual plan of reorganization.

In that regard, the Debtors emphasized that cause existed to extend the Exclusive Periods due to, among other things, the size and complexity of their chapter 11 cases and the Debtors' good faith progress with respect to their restructuring efforts, which included (a) analyzing and rejecting burdensome unexpired leases and executory contracts, (b) the retention of Impala and (c) the development of a strategic long-term business plan. The Debtors continue to implement expenditure reductions, reject unexpired leases and executory contracts and take necessary steps toward proposing and filing a chapter 11 plan.

18. The request for a modified extension of the Exclusive Periods set forth herein arises from the developments that have occurred in these chapter 11 cases since the filing of the Original Exclusivity Motion. As set forth above, the Debtors, with the support of the Prepetition Lenders and the Creditors' Committee, are in the process of multiple extensive negotiations regarding a sale or other transaction that will enable the Debtors to propose and file a chapter 11 plan. In that regard, the Debtors, in consultation with the Prepetition Lenders and the Creditors' Committee, are evaluating the various transactions, including the stand-alone restructuring plan, to determine the best means for maximizing the value of their estates. This process is highly complex, both in relation to the negotiations and certain of the Debtors' business relationships with third parties, and, to successfully complete this process, the Debtors' require additional time. Once the Debtors determine the best means for maximizing value and emerging from chapter 11, they will propose and file a chapter 11 plan.

19. The loss of the Debtors' exclusive right to file a plan at this juncture in these chapter 11 cases would have a deleterious effect on the Debtors, their estates, their creditors and all parties in interest. Notably, a termination of the Debtors' Exclusive Periods would adversely impact the current negotiations between the Debtors and third parties and

substantially impede the Debtors' restructuring efforts. Specifically, it would be virtually impossible for the Debtors to continue their negotiations and evaluation of the best means for emerging from chapter 11 if they were required to focus on analyzing and responding to chapter 11 plans submitted by other parties.

20. Moreover, it is clear that the Debtors are not seeking to extend the Exclusive Periods to pressure creditors to accede to the Debtors' reorganization demands. As noted above, *the Debtors and their major creditor constituencies are in agreement* regarding the Debtors' current course of action. The Debtors are requesting an extension of the Exclusive Periods to enable the Debtors to complete their evaluation and negotiations and propose a chapter 11 plan.

21. For the foregoing reasons, the Debtors believe that the requested extension of the Exclusive Periods is warranted and appropriate under the circumstances. The Debtors believe that granting the relief requested in this Supplement to the Original Exclusivity Motion is in the best interest of the Debtors, their creditors and other parties in interest.

#### **Waiver of Memorandum of Law**

22. This Supplement to the Original Exclusivity Motion does not raise any novel issues of law and the relevant legal authorities are noted herein. Thus, the Debtors respectfully request that the Court waive the requirement contained in Rule 9013-1(b) of the Local Bankruptcy Rules for the Southern District of New York that a separate memorandum of law be submitted.

#### **Notice**

23. This Supplement to the Original Exclusivity Motion has been provided to (a) the U.S. Trustee; (b) attorneys for the Prepetition Lenders; (c) attorneys for the Creditors' Committee and (d) all other parties on the Master Service List maintained in these chapter 11



cases. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is required.

24. No previous request for the relief sought herein has been made by the Debtors to this Court or any other court.

WHEREFORE, the Debtors respectfully request that this Court enter an order (a) extending the Exclusive Periods through and including March 15, 2004 and May 14, 2004, respectively, and (b) granting the Debtors such other and further relief as is just and proper.

Dated: New York, New York  
December 9, 2003

Respectfully submitted,

/s/ Jonathan S. Henes

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