

Senator Collins—It may be helpful if Telecom provides the committee—I think it can do this very readily—with a broad breakdown of the categories of complaints and the areas from which they come. Senator Alston may then be able to advise whether he wants a more detailed breakdown, rather than tying up the proceedings by trying to get a detailed breakdown immediately.

Senator BOSWELL—To pick up on Senator Alston's question, have you had any problems with the Valley exchange in Brisbane?

Mr Von Willer—There have certainly been some customer representations to us in that area—a very small number, I would have to say, less than a handful.

Senator BOSWELL—How many would you say?

Mr Von Willer—In terms of the longstanding complaints from Brisbane—I imagine you are referring to what has been referred to by these customers as the COT cases—

Senator BOSWELL—I have in my possession information from probably 40 or 50 people that have been unable to get an adequate telephone service in the Valley. Do you recognise that as a problem?

Mr Von Willer—We certainly are sensitive to that. We participated in a public meeting convened in Brisbane by Austel in late August. At that stage we did meet with and have discussions with a number of people—I think fewer than 20 attended that meeting—in regard to their service difficulties. Each of these we take on board and follow through. We will do testing if necessary, and try and localise what the source of their problem is.

Senator BOSWELL—How long has this been going on for?

Mr Von Willer—There has been a small number—I think two or three only—that have presented difficulties to us over a period of even some years, although I have to say that any widespread incidence—if you are talking of 10 or 20—that has emerged is quite a recent phenomenon.

Senator ALSTON—Is the Fortitude Valley exchange one that appears to be the subject of more complaints than others?

Mr Von Willer—In terms of the total context, that is not a large number of complaints when viewed against the total customer base. Again there is no particular pattern that indicates that the difficulties as represented in the Brisbane area in recent weeks are localised to any particular characteristic of that exchange. What we are doing is taking them on board one by one and, if there are any network loaded areas that can be attributed to Fortitude Valley exchange, they will be dealt with. At this stage we are not aware of any such difficulties that would be sourced to that.

Senator BOSWELL—I find that extremely difficult to understand. I do not know whether the communication is not reaching you but I have a document here obtained under Freedom of Information saying that the Valley exchange is the greatest embarrassment to Telecom that it has. I am sure that you would have seen that. If you have not seen it, you really have not come to this place prepared or you have been very badly briefed.

Senator Collins—Madam Chair, in order for us to respond to Senator Boswell in the most effective way possible, if he has got a document it would be helpful if he could give me a copy of it.

Senator BOSWELL—I think the minister is aware of this case too.

Senator Collins—Yes, I am, but I am not familiar with that document.

Senator BOSWELL—I will table that document, which was obtained under freedom of information.

Senator Collins—This is a Telecom document, is it?

Senator BOSWELL—Yes.

Senator ALSTON—Just to be clear, are you saying that, as far as Telecom is concerned, you do not regard the Fortitude Valley exchange as having any chronic problems?

Mr Von Willer—I am advised that we have conducted extensive testing on that exchange and the testing shows that it stood

up very well in terms of our network standards.

Senator ALSTON—That is not quite the same thing as saying whether it has had ongoing problems and there have been customer complaints that have been occurring over a considerable period of time.

Mr Von Willer—The tests I am advised that we have conducted indicate that there are no systemic problems and, indeed, the level of performance matches other exchanges around the country.

Senator ALSTON—Are you saying that has always been the case, or has there been some significant modernisation work undertaken in recent times?

Mr Von Willer—I do not believe that there has been any significant change by us that has brought that about. Where we have had individual customers on that exchange represent difficulties to us—and there has been a small number of those—we have done extensive testing, some thousands of hours of testing on those customers, that is ongoing, trying to localise the faults that are presenting to them.

Senator ALSTON—Where there are people who have made complaints—I suppose particularly the COT cases—and you have reached financial settlements with them, have those payments been made purely on a nuisance basis? In other words, was it just a formal payment and you did not admit liability, but maintained that there was nothing wrong as far as you could see? It is worth your while to pay up, rather than have the thing drag on for a period of time? Is there a significant component in any settlement that actually acknowledges the difficulties that have been experienced?

Mr Von Willer—We have dealt with each of those cases one by one and we have sought, over an extended period, to try to come to terms with the difficulties they believe they are having. We do not believe that there are systemic and repetitive faults. If faults have been detected, they have been dealt with. We certainly do not accept legal liability in terms of those claims; we are quite firm in regard to that.

Senator ALSTON—I understand that, but if, for example, those cases had gone to court, is it your position that they would have failed because there would not have been any evidence of any consequence that could not have been rebutted by Telecom?

Mr Von Willer—That is certainly my understanding.

Senator ALSTON—So each of the payments made has been really to get rid of the matters?

Mr Von Willer—Where there have been ex gratia payments made—and there has not been a large number of those—it has really been done to maintain goodwill with those customers, on an ex gratia basis. We recognise that they have had difficulties in dealing with us sometimes in the past—often considerable times in the past—and, whilst we have accepted no liability and nor do we accept any systemic technical difficulties that are represented by those cases, we have, in some cases, chosen to make a settlement.

Senator ALSTON—I do not quite understand the formula. Is the amount that you are prepared to pay related to the size of the claim, or to the complexity of it, so that you make some judgment of what the cost of litigation might be?

Mr Von Willer—It has been the circumstances of the particular case. There has been no set formula that has been applied, and it has been a very small number of cases in which we have reached that settlement purely to maintain goodwill with those customers.

Senator BOSWELL—In the case of Mrs Ganns, are you suggesting that there was nothing wrong with the phone service that you provided her, and you made the payment as a goodwill gesture?

Mr Von Willer—We are saying that, where we have discovered faults, we have dealt with those faults.

Senator BOSWELL—No. I asked a very specific question. If you did not understand it, I will repeat it. Are you suggesting, with the case of Mrs Ann Ganns, that the compensation or the payment that you made to her was a goodwill gesture and that there was nothing wrong with her telephone system?

Mr. Von Willer—The payment was made on an ex gratia basis and I am confirming that. I am saying that, in regard to her phone service, if there were problems that were detected, they were dealt with as they were discovered. We certainly do not accept any liability as claimed by any of those COT cases in regard to their businesses.

Senator ALSTON—But the question was specifically whether that payment was simply a nuisance payment to get rid of the claim, or did it at least have some component which acknowledged the difficulties that she claimed to be experiencing?

Senator BOSWELL—But in no way acknowledged the loss that she incurred in her business because she did not have a phone.

Mr. Von Willer—It did not acknowledge that.

Senator ALSTON—Just to be clear, did it similarly not accept that there was any problem in the exchange or technical problem with her telephone service?

Mr. Von Willer—I cannot say that there were no technical problems with the service. What I am saying is where there were problems, they were dealt with and restored.

Senator ALSTON—If that were the case, then there would be no basis for compensation.

Mr. Von Willer—Any compensation that was given was made ex gratia to maintain goodwill, as I said earlier.

Senator BOSWELL—I will ask you to be very careful about this because I want to remind you that this is a very serious matter. You maintain that the payment that Telecom made to her, when her phone was inadequate, was adequate and it provided her with a telephone that she could provide her business with.

Mr. Von Willer—Let me make a general statement—

Senator BOSWELL—No, I do not want a general statement. You are trying—

Senator Collins—Just allow the officer to continue his answer.

Mr. Von Willer—I am not prepared to go into individual cases for reasons of privacy.

That is a position that Telecom will maintain in regard to any particular customer.

Senator ALSTON—Whose privacy are you protecting?

Mr. Von Willer—We are protecting customer privacy generally.

Senator ALSTON—What if the customer waives it?

Mr. Von Willer—It is a general principle which we have applied.

Senator BOSWELL—I can assure you that Mrs. Garns wants her case fully discussed tonight. I could get you a fax—

Senator Collins—Not really in estimates. It has only just been set up and he has been appointed now and I have got no doubt he will pursue the matter aggressively.

Senator ALSTON—His jurisdiction is limited to \$10,000.

Senator Collins—Before the jurisdiction question is talked about, do you know whether these complaints have been laid with the new ombudsman, who has certainly got the power to investigate?

Senator ALSTON—These are all well in excess of his jurisdictional limits by a factor of 10 or 30.

Senator Collins—That may well be the case, but I would have thought, in terms of trying to nail down who is saying what and whether a legitimate complaint exists, that that is the best course. That is the only point I am making. All I am saying is I know what I would be doing with it, no matter what his jurisdiction was, if I were a complainer.

Senator BOSWELL—What would you be doing, Minister?

Senator Collins—I would not be stopping whatever else I was doing, but if the industry have just appointed an industry ombudsman, I would be, along with everything else, lobbying on his doorstep as soon as possible and saying, 'You check this out too'.

Senator BOSWELL—This has been going on for some two years—

Senator Collins—But the industry ombudsman has only just been appointed.

Senator BOSWELL—Yes, I know, but I can read a letter that was addressed to you from Ausstel. It says:

Austel has examined the documentation provided by Mrs. Garns and Mrs. Gillan, which consists of correspondence with Telecom, their own records of faults and documents gained under freedom of information. Based on this information, it is our opinion that the telephone service supplied to these customers has been inadequate and that advice given to these customers regarding their telephone service has been misleading.

That is the shuffle that has been going on for the last two years. You have been told by Ausstel that you have misled the person and you have not given her an adequate telephone. Minister, would you like a copy of that letter?

Senator Collins—I have got it, thank you. In fact, it is to Minister Beddall, not to me.

Senator BOSWELL—No, it is to you.

Senator Collins—This is a letter of 26 August.

Senator BOSWELL—This one is 9 February, to you, and there is another one here where you are virtually telling them to fix the complaint up.

Senator Collins—Yes, I recall it very well and I took action personally on the matter. That is perfectly true and my office did in fact action it. I am sorry, it was just a confusion of letters because there is one on the same subject of 26 August to Minister Beddall that I was referring to.

Senator ALSTON—What, relating to Mrs. Garns?

Senator Collins—Yes. We personally contacted the senior management of Telecom.

Senator BOSWELL—Yes, I know you have tried to do your best, but all we have got is evasion. We have got tabled tonight an admission from Ausstel that Telecom has misled Mrs. Garns and Mrs. Gillan, which is a very serious charge, and they have not supplied her with an adequate telephone service. We have now heard from Mr. von Willer that the Valley exchange is just like every other exchange in Australia. We have tabled a document from Telecom saying it is the greatest embarrassment to Australia, and Mr. von Willer comes in here

and tells us there is nothing wrong with Telecom. I have at least 400 people that have not been able to get a Telecom service and I am getting very damn annoyed with people like you trying to shuffle it around.

Senator Collins—I wonder whether we could just keep the personal abuse to a minimum.

Mr. Von Willer—Senator, there is, as you know, an Ausstel investigation going on. We think that is a good next step. It will get the investigation established with some objectivity. We are working with Ausstel in regard to that and we will certainly make available any of the records or background data that they need for their investigation, and that seems to us to be the right place to handle the broad issues which you have raised.

Senator BOSWELL—It might be all right for you in a Public Service job, do you realise this woman has lost \$2 million? You might feel very comfortable, but I can assure you that out there when you are in small business and you are fighting for survival and you cannot get an adequate telephone service to provide your business with a smooth flow, it is very different from sitting here in Canberra. I tell you this: I have had so many people ring my office with these complaints that it has just gone on too long.

Senator ALSTON—Are you able to table—I might have covered this before—the number and type of complaints received by Telecom in respect of service for the last three financial years?

Mr. Von Willer—We certainly have that information. We make that available to Ausstel on a regular basis.

Senator ALSTON—Can it be made available to this committee?

Mr. Von Willer—I believe we can certainly try and be responsive to the committee.

Senator ALSTON—Can I just ask, Minister, about a letter that you wrote to David Hore as chairman of AOTC of 19 February. You said you would appreciate advice on whether AOTC had formed a view on the nature of any technical problems with the exchange equipment concerned.

Handwritten initials: "H" and "A" with arrows pointing to the text above.

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PARLIAMENT OF AUSTRALIA · THE SENATE

SENATOR RICHARD ALSTON

*Deputy Leader of the Opposition in the Senate
Shadow Minister for Communications*

28 October 1993

Mr Robin Davey
Chairman
AUSTEL
PO Box 7443
St Kilda Road
MELBOURNE VIC 3004

Dear Robin

Thank you for the opportunity to explore the implications of the latest proposals for resolution of the COT Case complaints and to put in place an appropriate process to deal with future complaints.

As I understand the proposal it would be based on the UK model. The process would be managed or facilitated by the Telecommunications Industry Ombudsman, who would then contract out arbitration responsibilities to one of a panel of arbitrators for each of the claims in order to enable all matters to be dealt with as expeditiously as possible.

Both sides would then put written material before the arbitrator who would then hand down a judgement without taking submissions or hearing evidence. The UK experience suggests that complex cases can take up to three months before a decision is handed down but it could be anticipated that these matters would not take that length of time.

I have already indicated to Ian Campbell that, whilst I was generally inclined to favour the proposals, the Opposition would reserve the right to consider the establishment of a Senate Select Committee if AUSTEL's report raised matters of serious concern regarding outstanding problems or if there is evidence to substantiate the persistent complaints made by COT Case members, particularly Mr Schorer, of "misleading and deceptive conduct" on the part of Telecom. ↙

You will have received a copy of a letter dated 23 October 1993 from Mrs Ann Garms to Mr Frank Blount. Attached to this letter is a document setting out what are described as "extracts of documents identified by Coopers and Lybrand to substantiate COT allegations".

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If the quotations are accurate they would indicate that, despite a concession from Telecom Protective Services on 29 May 1990 that 28 incoming and unanswered calls had been received at Mrs Garm's restaurant, less than a month later the Corporate Secretary was indicating that special monitoring equipment had not revealed any problem. Whilst such an answer may be technically correct in relation to the results of the monitoring equipment, it clearly understates and indeed dismisses problems which Telecom had already conceded.

Further entries refer to "a minor intermittent problem with a relay contact", "a possible faulty rotary", "line one is being stepped over for no apparent reason", "network support confirmed a fault that exists", "problems being experienced ... line one going dead for a few minutes".

Yet on 17 January 1991, Telecom apparently reported to the Commonwealth Ombudsman that "all reports have been carefully checked but nothing has been revealed to indicate any problems ... so far nothing has been found to substantiate the customer's various claims". This answer would seem to be, at the least, disingenuous. In similar vein is the reply on 6 September 1991 "we have been unable to determine any network based condition that has the potential to cause the problems you allege". Again this would seem to be a less than frank answer. A further example would seem to be contained in the letter dated 15 September 1992 and the letter dated 6 April 1993.

If indeed Coopers and Lybrand have identified these documents and this would seem to be confirmed by a report in yesterday's Financial Review - I am somewhat surprised at my understanding from you that Coopers and Lybrand will not be dealing with these matters.

I therefore seek your confirmation that you will fully investigate such allegations and if necessary make the appropriate recommendations to ensure that such behaviour is unlikely to occur again. It could also be appropriate to recommend that in the event of future corporate misbehaviour, the Ombudsman should have jurisdiction to make a punitive award of damages.

Yours sincerely

Richard Alston

RICHARD ALSTON
Deputy Leader of the Opposition
in the Senate
Shadow Minister for Communications

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