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Exhibit 490 to 521



Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

Senate Environment, Recreation, Communications and the Arts Legislation Committee

Statement by the Telecommunications Industry Ombudsman, John Pinnock

26 September 1997

490

"... providing independent, just, informal, speedy resolution of complaints."

Telecommunications Industry Ombudsman Ltd

ACN 057 634 787

Website: www.tio.com.au
Email: tio@tio.com.au
National Headquarters

PO Box 276
Collins Street West
Melbourne

Telephone (03) 8600 8700
Facsimile (03) 8600 8797
Tel. Freecall 1800 062 058

Senate Environment, Recreation, Communications and the Arts Legislation Committee

Statement by the Telecommunications Industry Ombudsman, John Pinnock

26 September 1997

The Committee's proceedings on 24 June 1997 were concerned with administrative problems revealed by Telstra's handling of the COT (Casualties of Telstra) cases, and tended to focus on individual cases.

I thought it might be of assistance to the Committee if I provided an assessment of the COT Arbitration Procedures from my perspective as Administrator of the process, focusing on the essential features, analysing any deficiencies and drawing some conclusions and recommendations for the future.

Before doing so, however, it is appropriate to advise the Committee on the status of the remaining Arbitrations.

Four claims remain to be determined by the Arbitrators.

Lane Telecommunications, which is one part of the technical component of the Resource Unit has withdrawn from the process as a result of a conflict, or perceived conflict, of interest, after being purchased from Pacific Star by Ericsson Australia, a major supplier of equipment to Telstra, including equipment whose performance is central to some of the claims.

Mr Paul Howell remains as a technical adviser to the Resource Unit, but a decision will have to be made by the Arbitrators as to whether to replace Lane Telecommunications and if so, who that replacement should be. The Arbitrators may also have to determine when the conflict of interest arose, there being no consensus on this issue.

I am consulting with three of the four Claimants as to a number of possible replacements, but at the moment no agreement or consensus has been reached.

At the time of Lane's withdrawal one of the claims was very close to being determined, while the second and third claims are at various stages. In one case, the Arbitrator has already made a direction to refer information obtained to date to Mr Howell for preliminary technical assessment.

In the fourth matter, the claimant has elected to proceed with the Arbitration on the basis of Lane Telecommunications continuing as part of the Resource Unit. I expect this Arbitration to be completed in the near future, with a Financial Evaluation Report to be issued by the Resource Unit in the next week.

Turning to the process itself, the COT (Casualties of Telstra) arbitration procedures were designed to provide a means of resolving a number of outstanding claims which had several common features:

- the Claimants were all small business customers of Telstra;
- the businesses were heavily dependent on their telephone service and/or other telecommunications services;
- all claimed to have suffered substantial business losses as a result of Telstra's failure to provide a reasonable level of fault-free service and a failure to properly record and investigate reports of a variety of faults characterised by Telstra as 'Difficult Network Faults';
- although some Claimants had previously sought and been paid compensation by Telstra, all of the claims had been outstanding for a long time.

Initially, the Fast Track Arbitration Procedure (FTAP) was developed to deal with claims by Claimants described as the 'original COT' or 'COT 4'. This was followed by a Special Arbitration Procedure (SAP) developed to handle claims by the remaining COT Claimants.

Both procedures provided for the Telecommunications Industry Ombudsman to act as Administrator of the processes. Independent Arbitrators with the power to give directions to the parties and to make a final determination of the claims were appointed by the Administrator, either with the express consent and approval of, or after consultation with, the Claimants.

The procedures also provided for the Administrator, upon the request of the Arbitrator, to appoint an independent Resource Unit, comprised of expert technical and financial components, to assist the Arbitrator in reaching his determination. Again, the components of the Resource Unit were appointed either with the express consent and approval of, or after consultation with, the various Claimants.

Finally, the procedures provided for the appointment of an independent Special Counsel to advise the Administrator. In addition, a solicitor from the Special Counsel's firm was seconded on a full-time basis to the TIO to assist the Administrator.

All of these administrative costs of the arbitration procedures, with the exception of the Administrator's time, were to be met by Telstra.

Subsequently, a 'third generation' procedure known as the Standard Arbitration Rules (SAR) was developed by the TIO, in consultation with Telstra, Optus and Vodafone, and approved by AUSTEL, to deal with any future cases which would otherwise involve claims for compensation, beyond the usual powers of the TIO to make binding Determinations or Recommendations. Most of the features of the Standard Arbitration Rules are derived from and in common with the earlier procedures.

The FTAP and SAP required the Claimants and Telstra to maintain confidentiality as to the proceedings. However, under the rules of the FTAP the 'original COT' Claimants were entitled to discuss their respective proceedings and claims with each other.

Where the rules of the FTAP, and the SAP were silent, the proceedings were to be governed by the Victorian Commercial Arbitration Act, 1984. This provides that an Award by the Arbitrator is registerable as an order of the Victorian Supreme Court. The Act also confers a limited right of appeal against any Award by the Arbitrator.

The FTAP and SAP had amongst their objectives that they were to:

- be non-legalistic;
- operate in accordance with the principles of natural justice (procedural fairness); and
- allow the Arbitrator to relax certain rules of law or evidence.

The procedures required that:

- a claimant was to lodge a written Claim;
- Telstra was to lodge a written Defence in response;
- the claimant was to lodge a Reply to the Defence.

Time limits were set for each of these steps, although these could be varied by Direction of the Arbitrator, upon request of either party.

The Arbitrator also had a specific power to order a party to produce documents to the other party, upon request by the other party.

Evidence was to be supported by Statutory Declaration and although provision was made for evidence to be given on oath during an oral hearing ordered at the discretion of the Arbitrator, cross-examination of parties or witnesses was not permitted.

When Claim, Defence and Reply documents had been lodged, the Resource Unit could be formally appointed to review the issues, carry out any necessary site inspections and other investigations and to prepare separate Technical and Financial Evaluation Reports, in that

order, for the Arbitrator. The Arbitrator was required to provide these reports to the parties for comment and submissions.

At the completion of these stages, the Arbitrator would make a determination and Award.

Those are the salient features of the process.

The procedures as developed, envisaged a number of benefits both for the Claimants and for Telstra. From the point of view of the Claimants, the benefits were to be:

- a fast, non-legalistic, procedure, operating in accordance with natural justice to produce a fair outcome;
- all administrative costs were to be borne by Telstra;
- strict rules of evidence and of law were relaxed, in favour of the Claimants.

From Telstra's point of view the benefits were:

- finality and certainty in the determination of the Claims, as opposed to the uncertainties of other methods of resolution such as mediation or negotiated settlements which had already occurred with some of the COT cases
- confidentiality of the process.

Experience has shown that not all of these benefits have materialised. In my view, however, one of the potential deficiencies should have been obvious from the outset.

This deficiency revolves around the vexed question of the best method of enabling the Claimants to obtain documents held by Telstra. In the process leading up to the development of the Arbitration procedures, the Claimants were told that documents would be made available under the Freedom of Information Act.

The Commonwealth Ombudsman has reported on the problems encountered by Claimants in using the FOI process and I won't reiterate her findings. For present purposes, it is enough to say that the process was always going to be problematic, chiefly for three reasons.

Firstly, the Arbitrator had no control over the process, because it was conducted outside the ambit of the Arbitration Procedures.

Secondly, in providing documents, Telstra was entitled to rely on exemptions under the FOI Act. This often resulted in the Claimants receiving documents which were difficult to understand, because information had been deleted.

In contrast, the Claimants could have sought access to documents under the Arbitration Procedures. Provided that documents were relevant the Arbitrator could have directed Telstra to produce the documents without deletions. The Arbitrator could also have directed Telstra to produce documents to him for inspection, in order to determine any argument as to relevance. However, the Claimants would have been bound by the confidentiality provisions of the Arbitration Procedures in relation to documents provided to them in this way.

Thirdly, the FOI process as administered by Telstra was extremely slow and this contributed to much, but not all, of the delay in some Claimants prosecuting their claims.

As to the lessons learnt from experience, while Arbitration is inherently a legal or quasi-legal process, Telstra's approach to the COT Arbitrations was clearly one which was excessively legalistic. In many instances it made voluminous requests for further and better particulars of the legal basis of a Claimant's case when it was in a much better position to judge this issue than almost all the Claimants.

Since my appointment as Telecommunications Industry Ombudsman, my public comments on this aspect have been recorded in the Annual Reports of the TIO, and through the medium of AUSTEL's quarterly reports, on Telstra's implementation of the recommendations flowing from AUSTEL's original COT Report.

One consequence of Telstra's approach was that the Claimants tried not only to match their opponent's legal resources, but also felt it necessary to engage their own technical and financial experts. This was a significant expense for the Claimants because these costs were not 'administrative costs' of the Arbitration Procedures, and those Procedures made no provision for the payment of a Claimant's legal or other costs where the Claimant received an Award in his or her favour.

Although this deficiency has been largely remedied by Telstra agreeing to contribute to a successful Claimant's reasonable costs, by way of an ex gratia payment, the absence of such a guarantee in the Arbitration Procedures was a deficiency.

Next, there have been significant delays, over and above those delays associated with the FOI process in bringing the Arbitrations to completion. In some cases these delays have been due to Claimants being unable to provide information to substantiate their business losses.

These delays have been exacerbated by the extensive arguments by both sides as to the accuracy and merits of the Technical Evaluation and Financial Evaluation Reports produced by the Resource Unit.

Finally, as I have remarked previously, the Arbitrations have been bedevilled by the inability of the parties to treat the disputes as matters of a commercial nature and to put

behind them the atmosphere of mutual suspicion and mistrust that had built up over a long period of time.

An objective and dispassionate analysis of the Arbitration Procedures must, however, recognise that the Claimants have benefited from certain aspects of the process.

First, the Claimants under the FTAP had the significant benefit of Telstra effectively waiving any statutory immunity it may have otherwise been able to plead in legal proceedings.

In particular, Clause 10.1 of the FTAP provides:

In relation to Telecom's liability, if any, to compensate for any demonstrated loss on the part of the Claimant, the Arbitrator will:

- 10.1.1.3 recommend whether, notwithstanding that in respect of a period or periods that Telecom Australia is not strictly liable or has no obligation to pay, due to a statutory immunity covering that period or periods, Telecom Australia should, having regard to all the circumstances relevant to the Claimant's claim, pay an amount in respect of such a period or periods and, if so, what amount.

Clause 13 of the FTAP provides:

Telecom commits in advance to implementing any recommendations made by the Arbitrator pursuant to sub Clause 10.1.1.3.

Secondly, the Claimants under both the FTAP and SAP had the general benefit of the relaxation of rules of law.

In particular, Clause 7.1.1 of the SAP provides:

In relation to loss the Arbitrator will make a determination:

- 7.1.1.3 giving due regard to the normal rules of evidence and legal principles relating to causation, subject to any relaxation which is required to enable the Arbitrator to make a determination on reasonable ground as to the link between the Claimant's demonstrated loss and alleged faults or problems in the Claimant's telephone service, and to make reasonable inferences based upon such evidence as is presented by the Claimant and by Telstra.

(emphasis added)

been written into the arbitration procedures to meet the perceived requirements of natural justice or procedural fairness. However, those principles do not necessarily require this step.

Much time could be saved if the Resource Unit provided expert advice solely to the Arbitrator, as occurs in other types of commercial arbitration where technical expertise is made available to assist an Arbitrator.

4. The problem of excessive legalism is easy to identify but, given the nature of Arbitration, much less easy to remedy.

One solution would be to prohibit the parties from making requests for further and better particulars of any aspect of their respective cases. In the event of any obvious 'gap' the Arbitrator would have a discretionary power to direct a party to provide more material.

5. In general, the Arbitrator should have greater discretionary powers to control delays which have otherwise been inherent in the process to date.
6. Above all, major disputes which might be candidates for Arbitration should be identified at an early stage and a Claimant offered this option if the carrier considers it appropriate.

Because of adverse perceptions about the Arbitration Procedures, only one dispute has been dealt with under the SAR since that procedure was established.

It is interesting to note that of the 43 Dispute cases finalised by the TIO in 1996-97 only 15 were the subject of a formal and binding determination or direction by the Ombudsman.

The balance of 28 cases, which involved claims in excess of the TIO's powers to make a determination or recommendation, were resolved either by conciliation or by mediation.

JOHN PINNOCK
TELECOMMUNICATIONS INDUSTRY OMBUDSMAN

resolution by mediation or negotiation. In several cases settlements had already occurred in the past with some of the CoT claimants, but had not achieved finality. The second benefit was the confidentiality of the process as opposed to, for instance, litigation in open court. The experience has shown that not all of these benefits have emerged or materialised.

In my view, there was one potential difficulty that should have been obvious from the outset. I do not make any apology for coming along to this committee and saying that outright, because it should have been obvious, in my view, to the parties and everyone involved from the beginning. This deficiency revolves around the vexed question of how the claimants were to obtain, and the best method of obtaining, documents from Telstra which were to assist them in the process. In the process leading up to the development of the arbitration procedures—and I was not a party to that, but I know enough about it to be able to say this—the claimants were told clearly that documents were to be made available to them under the FOI Act. The Commonwealth Ombudsman has already reported on the problems encountered by the claimants in that process, and I do not propose to reiterate her findings.

Senator SCHACHT—Do you disagree with her findings?

Mr Pinnock—No. For present purposes, though, it is enough to say that the process was always going to be problematic, chiefly for three reasons. Firstly, and perhaps most significantly, the arbitrator had no control over that process, because it was a process conducted entirely outside the ambit of the arbitration procedures. Secondly, in providing documents Telstra was entitled to rely on whatever exemptions it might be entitled to under the FOI Act, and this often resulted in claimants receiving documents, the flow of which made them very difficult to understand. In some cases, there were obviously excisions of information. In contrast to this, the claimants could have sought access to documents on a regular basis under the arbitration procedures. Provided that those documents were relevant, the arbitrator could have directed Telstra to produce those documents without any deletions. If there was any argument as to the relevance of documents, the arbitrator would have had the power to require their production and inspection by him to make that determination in the first place. Thirdly, we know that the FOI process as administered was extremely slow, and this contributed to much, but certainly not all, of the delay which the claimants encountered in prosecuting their claims through the arbitration procedures.

With the benefit of hindsight, I will turn now to the lessons that are learnt from experience of the process. Firstly, arbitration is inherently a legalistic or quasi-legalistic procedure. It does not really matter how you might finetune any particular arbitration. It has the normal attributes of a quasi-legal procedure, where you have parties opposing each other with someone in the middle having to make a determination. Even having said that, I am on record as saying that Telstra's approach to the arbitrations was clearly one which was excessively legalistic. For instance, in many instances it made voluminous requests for

Facsimile



To Graham Schorer

From

Peter Gamble
Manager, Engineering and
Technical Consultancy

Commercial & Consumer
Customer Response Unit

Facsimile (03) 287 7001

File

8242 Exhibition Street
Melbourne
VIC 3000
Australia

Company Golden Messenger

Date

22 November, 1994

Telephone (03) 634 8436

Location 483-485 Queensberry
Street, Carlton

Total Pages 4

Facsimile (03) 634 9830

PSTN and ISDN Testing

Dear Mr Schorer

➔ An opportunity has become available for Telecom to carry out some specialised testing using a new piece of equipment which has only just become available.

The equipment is the Telephone Quality Measurement System (TQMS) Version 3, manufactured by Sotax Inc. The TQMS will enable the measurement of a number of call set up and transmission parameters. Attached is a copy of some material which describes the system. The equipment has been specifically set up to recognise the tones used within the Australian telephone network.

I am proposing that we use this equipment to carry out some tests on both your PSTN and ISDN services. The PSTN tests will require the use of a line from one of your PSTN rotary groups to receive calls from a second unit, with an additional control line also being required. The ISDN tests will require the allocation of an initial number to the test unit. Given the number of PSTN and ISDN lines you have available, this should have minimal impact on your use of the telephone network. The second unit will be moved between a number of locations which have been selected by taking note of your previous comments on locations where callers have reported difficulties in contacting your business.

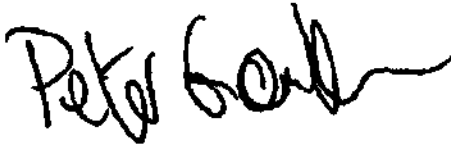
The precise duration of the tests, and hence the numbers of tests calls, have not yet been finalised, but it is expected that they will last for about two and a half days. The units are capable of generating calls at an approximate rate of 20 calls per hour. Spread over a full 24 hour period, which will ensure that both high and low traffic periods are encountered, it is expected that approximately 1,000 calls will be generated during the test period.

The cost of any outgoing calls made by this test equipment during this period will be credited to your telephone account.

The tests will be conducted by Mr Wayne Parker and Mr Jeff Thompson of Bell Canada International, who will also tabulate the results. The BCI staff will be assisted by two of my staff members, Mr Bruno Tonizzo and Mr Colin Roberts.

A copy of the results will be forwarded to you after the tests have been completed.

I would like these tests to start as soon as practicable and I will call you tomorrow morning to discuss the details further.



Peter Gamble

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CRUEN
DNF

ATTENTION
ONE

CRU Engineering Tasks and Staffing

1) Current staff are:

Manager: Peter Gamble

Engineering: Michael Pham (Smith Case).

Vacant position (was Maurie Lean on loan for two months from Network Ops, goes back Friday 23 Sept to carry out work which will be of long term benefit. Network Ops reluctant to release him for further time and are currently looking for possible replacement.),

Geoff Keenan (currently providing backup material and writing briefing papers).

Technical: **Bruno Tonizzo** (needed to manage Service Verification Test process and provide backup to all cases on CAN and transmission aspects),

Colin Roberts (started one week ago, needed to provide backup to all cases on switching aspects).

- 2) Complete the preparation of the Engineering Reports for the first four DNF Cases in a reasonable time, ie 3-4 weeks, and in parallel. Following the preparation period, the reports will need to be reviewed as the defence case is prepared. This task will require 1 engineer plus 1 technical officer for each case, ie 4 engineers and 4 technical officers. **Note that this has to be in addition to current staff.** Current staff level was predicated on serial preparation of engineering reports and at an overview level only.

Case	Engineer	Technical Officer
Garnis	--	Bruno Tonizzo (part time - currently also managing SVT)
Gillan	-- (Was Maurie Lean, who is retuning to Network Ops)	--
Schorer	--	--
Smith	Michael Pham	Mark Owen (on loan from Network Ops, Ballarat for two weeks, probably can be extended)

Therefore, an additional three engineers and three technical officers (around PTT01 / Level 5) for 6-8 weeks are needed urgently to carry out the case preparation work satisfactorily. If these staff are not available, then only minimal technical effort can be put into the cases. This requirement could be reduced to two engineers and two technical officers if one of the cases, say Schorer, was put on hold, but this is risky strategy. Back-up to these teams is to be provided by Geoff Keenan, Bruno Tonizzo and Colin Roberts.

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- 3) Completion of background and technical papers on the network and related matters. Should be finalised in the next two - three weeks. This task is to be carried out by Peter Gamble, Geoff Keenan and Colin Roberts with assistance from other authors and a consultant as required.
- 4) A review of the General DNF Files is to be made to locate material relevant to individual cases. Also, material is to be prepared relating to the Coopers and Lybrand, Bell Canada and Austel CoT Reports. Although a large part of this activity will be mainly administrative and legal, it will need a dedicated engineering resource. Accordingly, a further P3 Engineer is required for this activity, which is estimated to take 2 months. It can not be accomplished within existing resources.
- 5) Prepare the engineering reports for next 12. If required in the medium term, the best approach is to keep staff recruited for first four and allocate them a further two or three cases each. This would keep some continuity and the case staff would then be needed for four to five months.
- 6) Service Verification Tests need:
- management of individual tests ie scheduling the tests, co-ordination of customer, Network Ops, and C&C, establishment of call profile, finalisation of report and forwarding it to the customer and AUSTEL, etc etc
 - further development work ie ISDN tests, CPE tests, originating call tests,
 - negotiation and liaison with AUSTEL.
- Management of the test process is being carried out by Bruno Tonizzo. Work on developing the tests would be carried out by engineer recruited into the vacant position. Negotiation and liaison with AUSTEL is carried out by Peter Gamble.
- 7) A Call Delivery Test (100 calls from a number of origins to customers premises) was developed by Maurie Lean and carried out on Turner's service. These tests are needed to demonstrate in a formal way the current performance of the network to the DNF customers. Accordingly, they need to be carried out on a number of services, eg [REDACTED], Smith etc. In order to carry these tests out, people are required to make the calls, network Ops need to be on standby in case of problems, a person is needed at the customer's premises to receive the calls, and, accordingly, the whole process needs managing. Management would be done within the existing resources, providing previous recruitment has taken place.
- 8) Resolve technical issues relating to the first 4 plus the next 12 that crop up from time to time (eg [REDACTED] ISDN service, [REDACTED] wiring, [REDACTED] lines etc etc). This task can be done within the existing staff of engineers and technical officers if Maurie Lean is replaced and the full complement of case staff are recruited.
- 9) Discussion with David Fickling / Geoff Irvine / Fiona Hills on Fault Escalation process. There are a number of unresolved issues, particularly relating to the role of the CRU Engineering Group.

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- 10) Resolve technical issues relating to following 50 (?) and provide advice to Fiona Hills group. Once the SVT and support process are running smoothly, and initial work load is mostly complete, will be able to be handled within the existing group.
- 11) There are many other minor tasks which need action from time to time. These will be fitted in as time is available.

Conclusion

The following staff are needed urgently:

- One engineer at P3 level to fill the vacant position on a permanent basis. If permanent occupant can not be found, then a further rotation of an engineer from Network Operations is acceptable, with a three month minimum period.
- Three engineers at the P3 level (preferred, P2 acceptable if P3 not available) and three technical officers at the PTTO1 / Level 5 level for four to five months.
- One engineer at the P3 level for three months.

If these staff are not available, then the preparation of the general arbitration material and specific case material can not be completed in the required time frames.

The use of external staff on a consultant basis could be possible, providing there was a good working knowledge of Telecommunications. A possible pool of such staff could include engineers recently retrenched from Telecom, however, the selection process would have to ensure that the levels of knowledge and expertise were suitable.

Peter Gamble
16th September 1994

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A59731

Alleged unreasonable conduct

↓ 8.79 Telecom's conduct has been less than that which might be expected of a model corporate citizen - |||



- in insisting on strict proof of a causal link between faults and their effect on a business when its own records are deficient in recording faults |||
- in insisting on some complainants dealing with its lawyers rather than direct with it ||
- in concluding settlement negotiations expeditiously
- in insisting that payments in settlement of claims are goodwill payments/gestures rather than compensation. |||

RECOMMENDATIONS

8.80 AUSTEL recommends that -

- Telecom's advice to its customers experiencing difficult network faults on the outcome of its monitoring/testing should state the limitations of its monitoring/testing regime
- Telecom caution its staff engaged in resolution of difficult network faults against -
 - making statements to the effect that a customer's problem is unique before the causes of the faults have been identified |||
 - recommending customer equipment upgrades before other possible causes of the faults have been eliminated |||
 - making inaccurate representations of its liability for such faults |||
 - providing incomplete briefings to third parties who may take an interest in the resolution of the faults
- Telecom adopt a more flexible approach in its response to requests under the *Freedom of Information Act 1982* and ensure that it has the resources necessary to provide timely response to such requests

28 November 1994

Commercial & Consumer
Customer Affairs

Engineering and Technical
Consultancy

8/242 Exhibition St
Melbourne, Vic
Australia

Telephone (03) 634 8436
Facsimile (03) 634 9930

Norm O'Doherty
General Manager, Customer Affairs
AUSTEL
5 Queens Road
Melbourne, Vic

Service Verification Tests - Individual Call Data

Norm,

As agreed at one of our recent meetings and as confirmed in your letter of 16th November 1994, attached please find the detailed Call Delivery Test information for the following customers:

- Bova - Ralphies Pizza, Mordialloc, Vic
- Love - Lovey's Restaurant, Dixons Creek, Vic
- Main - Glen Waters Fish Farm, Glenburn, Vic
- Smith - Cape Bridgewater Holiday Camp, Cape Bridgewater, Vic (PSTN and 1 800)
- Turner - Gourmet Revolution, Moorabbin, Vic
- Trzcionka - Trzcionka's Hairdressing, Glenelg, SA

This information is supplied to Austel on a strictly Telecom-in-Confidence basis for use in their Service Verification Test Review only and not for any other purpose. The information is not to be disclosed to any third party without the prior written consent of Telecom.

The detailed results of the Call Delivery Tests should be read in conjunction with the individual Service Verification Test Reports, which will provide further information on the origins and destinations, together with details of the time period to be used for the call analysis. It should be noted that in all cases more than 500 calls are included in the sample. As indicated in Section 6.3.1 of "Service Verification Tests for Telecom's PSTN", the first 500 calls of the sample which fall within the specified time period, but not including the errors and failures mentioned in this section are used.

As you are already aware, the equipment which carries out the SVT Call Delivery Tests is able to hold the call for the required 120 seconds (as is shown on the results sheets), but is unable to confirm that the call has been held past 40 seconds. A more detailed response to your questions on this issue is under preparation.

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The detailed Call Delivery Test report for Dawson's Pest and Weed Control, Maidstone, is still being extracted from the data base and will be forwarded as soon as it is available. The report on Mr Bova's SVT is currently being finalised and will be forwarded as soon as it is available. As you are aware, Telecom is not completing the Service Verification Test for Mr Turner's service at his request. However, a report on that part of the test which has been completed is being prepared.

Also attached is a copy of the latest issue of a Result Summary document that has been prepared to show the key results from each SVT.

Two manual Call Delivery Tests have been carried out to Mr Main's service and to Mr Turner's service. Reports on the results of these tests are currently under preparation and will be forwarded to the customer, with a copy to AUSTEL, as soon as they are available.

Should you have any further queries, please do not hesitate to contact me.



Peter Gamble

FAXED
15/12/94
8.48 PM

GOLDEN

Transport Agency

16/12/94
9.40

A Division of G.M. (MELBOURNE) HOLDINGS PTY. LTD. A.C.N. 005 905 046

IMPORTANT: WE ARE NOT COMMON CARRIERS. The Carrier directs your attention to its trading **TERMS AND CONDITIONS OF CONTRACT.** It is in your interests to read them to avoid any later confusion.

To:	Mr Steve Black Group General Manager, Customer Affairs	Date:	15 December 1994
		Our Ref:	1431
Company:	Telecom	Fax No:	632 3235
From:	Mr Graham Schorer	Total Pages (incl. Header)	
MAILED: YES () NO ()			

Dear Mr Black,

RE: PROPOSED TELECOM VERIFICATION TESTING

I refer you to our telephone conversation last week regarding this matter and as you recall, my drawing your attention to the Peter Gamble correspondence referring to the statement that there will be further testings conducted by Bell Canada using new American equipment especially designed for such types of testing.

I pointed out to you that I was aware that this equipment had run into problems when trying to run tests on Ralph Bova service, which you responded that you were not aware of.

I offered a suggestion that should have been mutually acceptable to both parties, that this type of testing be conducted by D.M.R., the technical communication resource unit attached to the Fast Track Arbitration Procedure, which you stated would not be appropriate.

I then offered a suggestion that this type of testing should be conducted in the presence of Cliff Matheson of Austel, and you undertook to investigate this possibility with Austel further.

During a more recent telephone conversation regarding many other matters, you informed me that Cliff Matheson would not be available while the Bell Canada people would be still in Australia. I asked the question of you, why would Bell Canada's presence in Australia be relevant if Cliff Matheson, on behalf of Austel, was to conduct the tests.

I have finally managed to make telephone contact with Cliff Matheson yesterday to discuss this matter with him in person and the outcome was as listed below:-

- (a) He personally had no difficulty being involved in such testing program;
- (b) His current commitment would prevent him from being available until approximately mid January;
- (c) Austel management would have to approve of his involvement in such testing;

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Voice: (03) 287 7099

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Fax: (03) 287 7001

493-495 Queensberry Street, NORTH MELBOURNE, V.C. 3051

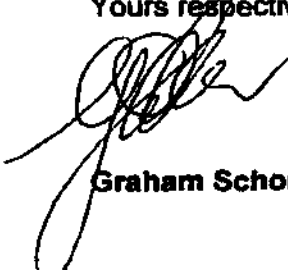
- (d) He is of the opinion that his involvement would have to be at the expense of Telecom;
- (e) Telecom would have to formally request of Austel for Cliff Matheson's involvement in such testing.

During a telephone conversation between you and I earlier this week, I informed you:-

- (a) I had not been able to make contact with Cliff Matheson;
- (b) I was aware that Telecom/Bell Canada International had abandoned tests on Gary Dawson's telephone service last Friday, 9 December 1994, and the official reason given was that this new equipment does not like Australian conditions;
- (c) I required in writing from Telecom the results and reasons for such tests were abandoned.

Mr Black, I am awaiting your written response.

Yours respectively,



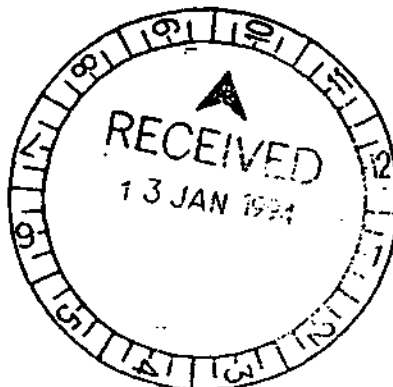
Graham Schorer

495

Telecom
 AUSTRALIA

 Commercial & Consumer
 Customer Affairs **128**

 Locked Bag 4960
 Melbourne Vic 3100

 Telephone (03) 632 7700
 Facsimile (03) 632 3241


11 January, 1994

 Mr Warwick Smith
 Telecommunications Industry Ombudsman
 Ground Floor
 321 Exhibition Street
 MELBOURNE VIC 3000

Dear Warwick,

I have attached for your information a copy of a letter sent to AUSTEL providing the results of two additional studies undertaken by Telecom to test the Rotary Hunting Groups and to provide supplementary inter-exchange network tests and the details of the tests. The additional testing was undertaken to provide further information on the reliability of the telecommunications services provided to those customers complaining of difficult network faults.

As you will see from the attached letter, the documents are rated "Commercial in Confidence" and are provided for the information of the TIO and not for release or disclosure to third parties without the permission of Telecom Australia. I would ask that this rating of the documents be respected.

It is anticipated that the release of these documents to the four customers currently proposed for the fast track arbitration process will be agreed at an appropriate time in consultation with yourself. The timing of the release can be finalised once the assessor has been appointed and the procedures for the arbitration have been agreed.

I also wish to confirm to you my previous advice regarding arrangements made with AUSTEL for the release of documents obtained from Telecom to the four customers currently proposed for the Fast Track arbitration process.

It was agreed at a meeting between Mr. Graeme Ward and Mr. Steve Black of Telecom and Dr Bob Horton and Mr Neil Tuckwell of AUSTEL on 7 January 1994 that:

- Information obtained from Telecom, in the course of AUSTEL's regulatory functions, and relevant to any parties involved in a formal arbitration process with Telecom under the control of the Telecommunications Industry Ombudsman (TIO) will only be released after consultation with the TIO and Telecom.
- The AUSTEL draft report will be expedited to ensure that it is available at an early stage of the arbitration process.
- The AUSTEL draft report will be released to the parties involved in the fast track arbitration process for comment in accordance with a process agreed with the TIO, and only after each party has signed a formal document committing to keeping the contents of the report confidential and giving an undertaking not to comment either privately or publicly on the report until after it has been released publicly by AUSTEL

Yours sincerely,

 Steve Black
 GROUP GENERAL MANAGER - CUSTOMER AFFAIRS

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Paul J Rizzo
Group Managing Director
Networks and Telecommunications
244 Exhibition Street
Melbourne Vic 3000 Australia
Telephone (03) 204 9981
Sydney (02) 204 9981
Facsimile (03) 924 6410

11 January, 1994

Dr R Horton
Acting Chairman
AUSTEL
PO Box 7443 St Kilda Road
Melbourne Vic 3004

Dear Dr Horton

VOICE MONITORING

As you would be aware, there has been substantial media comment on Telecom's action in recording the telephone calls on the services of Mrs Gillan and Mrs Garms in the context of a detailed fault investigation. Information was received at about 4.30 pm on 5 January 1994 from the Australian Financial Review that the APR was in possession of documents from AUSTEL which advised that this monitoring had taken place and these documents formed the basis of the APR's question and subsequent public comment on the matter.

I have now received a letter from Mr MacMahon (copy attached) confirming that he advised both Mrs Garms and Mrs Gillan that Telecom had undertaken recording on their services. These letters were based on information provided by Telecom on the 24th December 1993.

Telecom's primary concern is that the information was released to a party that is currently involved with a dispute with Telecom, and who has entered into a formal arbitration process to resolve that dispute. The action taken has inflamed the dispute, aggravated the parties, led the parties to actively seek to raise the dispute to public comment and has put at risk the arbitration process.

The release of the information in these circumstances raises issues of principle which need to be resolved. Under the circumstances it was inappropriate for this information to be released in this way. Once a quasi judicial process such as the agreed arbitration

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Telecom Corporation Limited
ACN 051 775 558

process has been entered into, information which may be material to that process should only be released through that process if at all. As AUSTEL participated with Telecom in the establishment of that process it is clear that AUSTEL was fully aware of the existence of the process and the formal agreement between the parties.

It is Telecom's view that arrangements should be put in place to ensure that information gained from Telecom in the course of AUSTEL's regulatory functions is only released in an appropriate way. To this end I wish to confirm the agreement reached between Mr. Graeme Ward and Mr. Steve Black in a meeting with you and Mr Neil Tuckwell today that:

- Information obtained from Telecom, in the course of AUSTEL's regulatory functions, and relevant to any parties involved in a formal arbitration process with Telecom under the control of the Telecommunications Industry Ombudsman (TIO) will only be released after consultation with the TIO and Telecom.
- The AUSTEL draft report will be expedited to ensure that it is available at an early stage of the arbitration process.
- The AUSTEL draft report will be released to the parties involved in the fast track arbitration process for comment in accordance with a process agreed with the TIO, and only after each party has signed a formal document committing to keeping the contents of the report confidential and giving an undertaking not to comment either privately or publicly on the report until after it has been released publicly by AUSTEL.

Yours sincerely



Paul J. Egan

**GROUP MANAGING DIRECTOR
FINANCE & ADMINISTRATION**

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Customer Response Unit
Commercial & Consumer

Level 37
242 Exhibition Street
Melbourne Vic. 3000

Telephone (03) 834 2877
Facsimile (03) 837 3726

23 December 1994

Mr Graham Schorer
Golden Transport Agency and
Associated Entities
493-495 Queensbury Street
NORTH MELBOURNE VIC 3051

Dear Sir

Proposed Telecom Verification Testing - Your reference 1431

I refer to your letter of 15 December (ref 1431) addressed to Mr Black. I note your comments.

I advise that Telecom is unable to make comments specifically relating to Gary Dawson's telephone service. However, in a general sense I can advise that the Bell Canada equipment utilised in the testing was a prototype. Some tests were carried out but, because Bell Canada and Telecom were not satisfied with the performance of the equipment in all respects it was decided not to continue with the tests. There are ongoing discussions with Bell Canada in relation to future possible testing.

As indicated previously, Telecom wishes to carry out Service Verification Testing on your PSTN and ISDN services. Your co-operation is sought. To properly explain the testing to you I suggest a meeting at Telecom offices in the week beginning 10 January 1995 to discuss the arrangements. The staff involved will include Mr Peter Gamble, together with an ISDN expert from Mr Roger Bamber's staff. We believe that Mr Peter Gamble would be the most appropriate person to accompany the ISDN specialist at the meeting. We have looked at options as to who is available for the meeting and believe that for technical and historical reasons Mr Gamble is the most suitable. He has expertise in Service Verification Testing, and is a highly respected engineer who understands your telephone service. Consequently he will be able to provide proper background for the ISDN specialist.

We look forward to hearing from you.

Yours faithfully

Ted Benjamin
National Manager
Customer Response Unit

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Telecom Corporation Limited
ACN 061 775 556



26 September 1995

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Office Of Customer Affairs

Level 19 222 Exhibition Street
Melbourne
Australia

Telephone (03) 9204 5566
Facsimile (03) 9204 5571

Cliff Mathieson
General Manager
Carrier Monitoring Unit
AUSTEL
5 Queens Road
Melbourne 3004

Dear Cliff,

SVT Test Results For Dawson and Wiegmann

Attached for your information are copies of the reports of the Service Verification Tests (SVT) conducted on Mr Dawson's Rockbank service and Mr Wiegmann's Jindabyne South service. Your attention is drawn to the fact that the SVT for Mr Wiegmann was not completed for the reason outlined below.

The initial requests to all customers to allow Service Verification Tests to be carried out are made verbally. Following the customer's agreement, Telstra staff provide the customer with a copy of G001 and brief the customer on the SVT process and the implications of the actual test with respect to entry to premises, disruption to service etc. During these discussions the need to determine an incoming call profile is explained and as much information as the customer is able to provide is noted.

Following these discussions, but prior to the carrying out of the Customer Specific Line tests, three customers:

- Mr G Schorer (Golden Messenger), North Melbourne, Vic,
- Mr C Turner (The Gourmet Revolution), Cheltenham, Vic, and
- Mr M Wiegmann (Michael Wiegmann Drafting Service), Jindabyne South NSW

withdrew their permission for the Customer Specific Line tests to be carried out.

However, Telstra has conducted the Call Delivery Tests for these three customers in accordance with the established procedures and the call profiles provided by these customers. Should any of these customers withdraw their refusal and allow the tests to be completed, then Telstra will carry out the tests as soon as practicable.

Previous correspondence from Telstra has indicated which of the services of the sixteen DNF Customers referred to Telstra by AUSTEL were to be tested and the reasons for not testing the remainder. A summary of the SVTs carried out on the services tested is attached for your information. As you will note, all services where testing was completed have passed the SVT. Further, the three services where the Call Delivery Test was carried out have exceeded the required outcomes.

Telstra considers that this completes the actions on Recommendation 25 and 26 of the AUSTEL COT Report.



Peter Gamble
Manager: Engineering and Technical Support Group
Office Of Customer Affairs.

cc: GGM Office Of Customer Affairs, Mr Steve Black.

T BY: HUNT & HUNT

12- 5-95 : 2:41PM :

MELBOURNE OFFICE

61 3 277 8797: 2



Hunt & Hunt

LAWYERS

12 May 1995

Our Ref: GLH

Matter No:

Your Ref:

BY FAX: 277 8797

Mr Warwick Smith
Telecommunications Industry Ombudsman
321 Exhibition Street
Melbourne VIC 3000

Partners
David M. Scarle
Edward S. Bayes
James C.F. Harrowell
Gordon A. Colby
Gordon L. Hughes
Mark T. Thompson
Ian S. Craig
Peter J. Smith
Wayne B. Cahill
Vivian C.H. Deben
Glen D. Selman
Charles Veeva
Andrew Leslie Smith
William P. O'Shea

Consultants
Kenneth M. Martin
Richard J. Sullivan
Andrew Jenkins

Associates
Shane C. Hill
John S. Mohr
Malcolm A. Henderson
Francis V. Gellie
John D.F. Martin

Dear Warwick

FAST-TRACK ARBITRATION PROCEDURE

You have asked me for my comments on the arbitration process, now that I have delivered my first ruling.

Upon my return from leave in 2 weeks, I would be happy to discuss this matter with you in detail.

In simple terms, my observations are as follows:

- as far as I could observe, both Telecom and Smith co-operated in the Smith arbitration;
- the time frames set in the original Arbitration Agreement were, with the benefit of hindsight, optimistic;
- in particular, we did not allow sufficient time in the Arbitration Agreement for inevitable delays associated with the production of documents, obtaining further particulars and the preparation of technical reports;
- there have been allegations by Smith and other claimants that Telecom deliberately slowed the process by delaying the production of documents under FOI - certainly the FOI claims have caused delays but I am unable to comment as to whether there has been a deliberate delaying tactic;
- request for further particulars are, I think, unavoidable - although the emphasis in the arbitration process is upon a quick resolution of the dispute, a party (in this case Telecom) faced with a significant claim

melbourne

sydney

adelaide

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perth

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MELBOURNE OFFICE+

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against it is entitled to be presented with particularised complaints;
not generalised and unsubstantiated allegations;

the preparation of technical reports by the claimants is always going
to be a problem - in simple terms, Telecom has all the information
and the claimant has to pay a technical expert to examine and
interpret it.

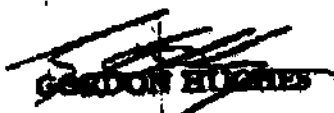
In summary, it is my view that if the process is to remain credible, it is
necessary to contemplate a time frame for completion which is longer
than presently contained in the Arbitration Agreement.

There are some other procedural difficulties which revealed themselves
during the Smith arbitration and which I would like to discuss with you
when I return. These centre principally upon the fact that claimants, who
are often seeking large sums, are generally unable to specify the legal basis
for their claim (eg negligence, breach of contract, Trade Practices Act), yet
it is necessary for me to base my rulings upon a breach of legal duty. This
means that I have to in part rely upon Telecom to identify the legal basis of
the claim made against it (which is somewhat perverse and which was in
any event handled by Telecom in a less than satisfactory manner), and/or I
have to search myself for a legal basis without assistance from the parties
(which inevitably contributes to the time and expense associated with the
proceedings).

I wonder whether some pro forma document could be developed which
could point claimants in the right direction.

I apologise for the brevity of these comments. I am happy to provide you
with a more detailed written report when I return from leave in 2 weeks.
Ultimately, I think we should have a conference involving you, me and
Peter Bartlett to consider these and related issues.

Yours sincerely


GORDON HUGHES

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SUGGESTED LETTER FROM J. HOLMES

29 October 1993

CORPORATE SECRETARY

Level 41
242 Exhibition Street,
MELBOURNE VIC 3000
Australia

Telephone (03) 634 6431
Facsimile (03) 632 3215

Mr G. Schorer
Managing Director
Golden Messenger
P.O. Box 313
NORTH MELBOURNE, Vic. 3051

Dear Mr Schorer,

I write to ask for clarification of your claims you wish to settle with Telecom.

Settlements with the other three members of your group were for claims regarding the network.

Your position appears to be somewhat different in that your company issued legal proceedings against Telecom based upon an alleged contravention of Section 52 of the Trade Practices Act (regarding customer premises equipment?). Telecom made a payment into Court with a denial of liability which was accepted by your company. The acceptance of a payment into Court amounts at law to a final and binding settlement of the cause of the action in respect of which the payment into Court was made. Consequently, the settlement reached with you and your company is even more clearly a fully binding settlement which Telecom has no obligation, legal or moral, to re-open.

However, any claims about matters other than those covered by the Court proceedings Telecom would consider; in effect, they would be "new claims", and could be covered by any new dispute resolution procedure.

Accordingly, would you please clarify the claims you wish to settle with Telecom and to what extent, if at all, do they relate to the past Court action.

Yours sincerely,

J.R. Holmes
CORPORATE SECRETARY

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CAPE BRIDGEWATER

HOLIDAY CAMP

REVIEW OF DOCUMENTATION

27th July 2007

**Brian Hodge, B Tech; MBA
(B.C. Telecommunication)**

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1. INTRODUCTION

I Brian Hodge having over forty years experience in telecommunications as a technician, Tech Office, Engineer & Manager (refer appendix 1), has been requested to examine a quantity of documentation relating to the services delivering to the Cape Bridgewater Holiday Camp (CBHC) at Cape Bridgewater.

In addition, to examine documentation that relate to the testing of services to the CBHC undertaken by Telstra/Telecom Australia and Bell Canada International (BCI).

I have been requested, based on the personal experience in the field, to comment on the reports, testing technique utilised, and other aspects relating to services delivery to CBHC.

A variety of testing techniques and call reporting systems were employed as the basis for the reports & documents prepared by Telstra/Telecom Australia.

2. TESTING SYSTEMS & RECORDING

A quantity of testing system were employed & consisted of the following:

2.1. TCARS/TRT

The TEST CALL ANSWER RELAY SET is utilised for remotely testing the transmission performance of a telephone circuit in both directions, where the operator controls the tests from one end.

The TCAR set is fitted in the automatic exchange & permanently connected to a subscriber number (ie. Fixed test number). The TCAR can therefore be called automatically from an outgoing testing facility (eg Traffic Route Tester – TRT) in any exchange.

The TRT tests are made by dialling a distant exchange (TCAR) number & performing a number of tests. The TRT operate in either of two modes.

- a. Observed service performance runs;
- b. Fault hold & trace runs

The TRT causes the TCAR to respond in a predetermined manner, and appropriate measurements of network performance can be determined.

One purpose of the TCAR is to ensure that the planned transmission losses are within specified limits.

To enable the fully testing cycle to be achieved, the period between seizure & release of the TCAR is a fixed 24 seconds.

2.2. PTARS

The portable equivalent to TCARS is the Portable Tone Answer Relay Set (PTARS).

The PTAR is a "Portable" testbox attached to a line location at a "terminating" exchange to provide answer supervision for test calls (refer BCI Addendum Report – Glossary).

As to the PTARs carries out the same functions as TCARS, the seizure – release time is equivalent.

2.3. NEAT Testing

Network Evaluation and Test System (NEAT) is an Ericsson designed & built testing system.

The system conducts transmissions & continuity tests between dedicated network test units.

"Each test call is held for 100 seconds to conduct transmission test & to detect drop outs" (ref. Telstra doc K35002).

The dedicated Network test unit is connected to the selected test number in the selected exchange line appearance.

Each test call takes 100 seconds to complete (refer K35002).

2.4. Call Event Monitoring

Dedicated test equipment (eg. ELM1 event recorder) is provided at the customer's premises.

Hence, this device records all activities relating to the customer telephone handset such as;

- a. Handset lift off
- b. Outgoing call
- c. No. dialled
- d. Incoming ring
- e. Answer time
- f. Call/handset off duration
- g. Call time

As this device is located at the customers premises, no exchange call data can be recorded.

2.5. Call Charge Analysis System

The Call Charge Analysis System (CCAS) is not a testing system but a call recording system. It is primarily used to provide information to enable billing to occur.

The system records & analyses the incoming & outgoing calls specifically:

- a. Incoming call time
- b. Incoming call status (eg. answer or non-answer)
- c. Outgoing call time
- d. Outgoing call dialling
- e. Termination time

This system is associated with the main NODE or switching exchange (eg. Warrnambool - WBOX for Portland & Cape Bridgewater Service area).

However, to prevent unnecessary data capture, short system seizure are not recorded unless three or more digits are dialled.

This can result in discrepancies between exchanged based (CCAS) data & customer end data (eg. ELMi).

Therefore, "Phantom calls" to the customer services may not be detected or recorded by the CSAS. (Phantom calls are calls generated by the network equipment usually resulting from a fault condition. The call causes an individual customer/subscriber or maybe a group of customers telephone to ring. When answered no calling party exists and maybe dial tone is received or no tone at all)

3. NETWORK TOPOLOGY

3.1. The network is made up of a hierarchy of exchanges. However, the type and selection of the specific connecting equipment depends on the number of customers in a cluster, and the distance of this cluster from the node or terminal exchange.

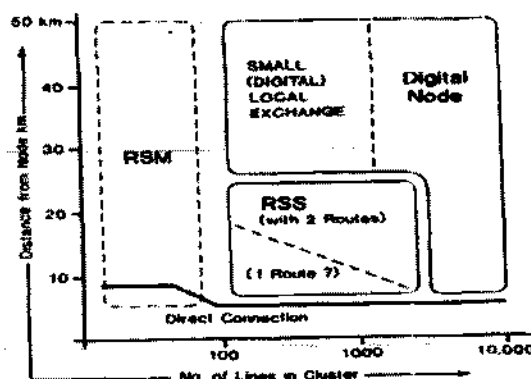


FIG. 13 CHOICE OF CONNECTING ELEMENT

(Refer Telecom Aust, Engineer Development Program, Technical Publication TPH 1176, FIG.13)

Customers near the node can be directly connected. Small group of greater distances can be connected by "Remote Subscriber Multiplexer" (RSM) (the term RSM was later changed by Telstra to RCM – Remote Customer Multiplexing when the term Subscriber was replaced by Customer. The term RSM has been used in this report as it was the term utilised at the time in question) over a primary digital line system. Large clusters are best served by "remote switching stage" (RSS).

The RSS equipment being used extensively to make digital SWITCHING available in remote areas.

The RSM being used to make digital SERVICES available in remote areas.

The RSM, as the name implies, is a multiplexer connected to a distant termination exchange via a primary* PCM transmission system. The RSM is NOT an exchange but is a "concentrator" of services. The primary function of the RSM is to:-

- a. Provide current feed to subscriber line
- b. Detection of telephone hook state
- c. Sending tones & ringing signal
- d. Ring tripping
- e. 2/4 wire conversion
- f. Analogue to Digital conversion
- g. Reception of dial pulses

The RSM DOES NOT

- a. Undertake any analysis of the call
- b. Carry out network switching
- c. Carry out call charging
- d. Carry out local call switching
- e. Provide service numbers

All of these activities are undertaken in the terminal or network node.

Local calls between subscribers on a RSM result in "trombone trunking" of the call from and to the RSM AFTER switching has occurred.

(trombone trunking is a term used to describe the switching of local call traffic generated by equipment that has no analysis capabilities locally. All calls are immediately trunked to the main or higher exchange for analysis and all local calls are then sent back to the originating system for termination of the call. The path of the call therefore resembles the musical instrument the trombone)

The RSM is a true multiplexer extending a small number of subscriber appearance via a digital 30 channel PCM Link from the terminal switching

exchange to the remote subscriber cluster. (a multiplexer is a means of combining a number of services or circuits typically in multiples of 30, over one operational trunk or circuit. The multiplexer concentrates or condenses the circuits or services into a bearer trunk that enables simplified transmission of the service)

3.2. Primary Digital System

Digital Transmission Systems are arranged into a hierarchy of digital application based on equivalent channel capacity. The base application being the primary systems with the equivalent channel capacity of 30 channels.

The input being "voice frequency" (voice frequency is an analogue waveform typically 200hz – 3,000hz) & output 2.048 kbits/sec.

This application operating over typical standard pair cable or radio links.

4. NETWORK SIGNALLING

4.1. Common Channel Signalling (CCS 7)

Common Channel Signalling based on CCITT signalling system No. 7 (CCS 7) is used for inter-exchange telephone call signalling within the network.

The CCS network is a packet switch data network designed to provide reliable & speedy transfer of call control and other messages for the telecommunication network.

CCS is also used for non-telephony applications & advanced telephony services, such as network management & services that require translation of the called/calling party identity at centralised databases (eg. billing database). Users of the CCS network are connected at locations known as Signalling Points (SP).

The CCS network is composed of links connecting the nodes known as Signal Transfer Points (STP). Each SP is connected to at least two STP. The STP is also a SP.

Therefore digital exchanges are connected to the CCS via a SP and STP depending on its over hierarchy status.

However only digital systems (eg. switching exchanges & digital nodes) are connected & controlled by the CCS network.

4.2. Analogue Signalling

Signalling within the analogue network is/was via Multi-Frequency Code & T&G signalling system.

The analogue system & the signalling system utilised are/were not connected to the CCS network.

Both the signalling systems had the primary function to transfer called number data through the network to enable SWITCHING of the telephone call.

(Switching is the functional carried out by the telephone network, based on the calling data or numbers dialled, to direct the call over trunks and circuits to the determined end destination. This switching action can take place through a single or multiple exchanges depending on the number dialled and the network infrastructure).

Where no call switching occurs CCS7 system is NOT provided.

5. DOCUMENTATION REVIEW

A quantity of documentation relating the testing of the service to and from the Cape Bridgewater area was examined. The documents related to the specifics of the test reported to have been undertaken as well as the Call Charge reports associated with services at Cape Bridgewater Holiday Camp.

A quantity of Telstra, Austel, Bell Canada International Reports were examined during the process. However the examination was by no means limited to the documents mentioned. Other Telecom Australia/Telstra documents were also examined as necessary to assist in the process.

5.1. Cape Bridgewater

The system located at Cape Bridgewater is a Remote Subscriber Multiplexer (RSM). This is NOT an exchange and as such DOES NOT:

- a. Switch call traffic
- b. Analyse call data (eg numbers)
- c. Carry out call metering
- d. Provide any network intelligence
- e. Provide any subscriber monitoring.

As such the "number range" allocated to Cape Bridgewater resides at the Portland exchange. Numbers are therefore allocated at Portland & "extended" to Cape Bridgewater. Multiplexing a number of services over single transmission bearer using PCM technology, is the method of delivery of services to Cape Bridgewater RSM.

Therefore TCARS/PTAR connected to the test number 055 267 211 are within the Cape Bridgewater number range BUT this is physically located as part of the Portland exchange. The RSM has NO number range, this being allocated at the "parent" exchange (ie. Portland). (This is verified in document N00005 (A63152) paragraph 2+6.)

5.2. Common Channel Signalling (CCS7)

Common Channel Signalling No.7 DOES NOT appear or function at Cape Bridgewater RSM. As no switching, analysis, or billing take place CCS7 is not required.

However a similar signalling system operates on the PCM multiplexing transmission system between Portland & Cape Bridgewater BUT is NOT connected to or forms any part of the CCS network.

The purpose of this signalling link to maintain a functional transmission & multiplexing system.

Document K04555 paragraph 4 indicate that CCS 7 was only used to monitor calls to Portland via the Warrnambool node (agin 1993/94).

During the CCS7 network monitoring process, no calls within the Portland area were observed (refer Telstra document K04555 – CCS7 at time 1994, was only utilised on calls from Warrnambool AXE to Portland Axe, NOT during locals within the Portland area) . Indicating that the CCS7 network monitoring undertaken DID NOT take place in Portland, nor Cape Bridgewater systems or equipment.

As the CCS network transists the call through the network no CCS7 link existed from Warrnambool to Portland at this time (eg. 1993/4).

During the early 1990's (eg. 1993), the rollout of AXE & the CCS network was still expanding. NOT all links to within Portland utilised the CCS network for signalling purposes. MFC signalling was utilised in Portland (as CCS7 was not utilised in Portland at this time as mentioned previously, MFC was the signalling system still operational having bee n utilised as part of the ARF system that was the major component of the network at that time).

Therefore collection of CCS7 data & the associated reporting of the network performance when related to services connected to Cape Bridgewater RSM. was inconclusive & flawed, as it only enable parts of the network hierarchy to be monitored at this time. Where network upgrading had not been completed or implemented the old signalling system were still operational and required for network operation. The monitoring techniques utilised for CCS7 were not applicable or relevant to the existing and obsolete systems and technologies.

5.3. Test Calls

The documentation indicated that in the region of 13,000* test calls were placed to the test numbers nominated (eg. Portland number range).

These test calls were undertaken by Bell Canada International (BCI) and by Telstra Network Operations (NEAT testing).

5.3.1. BCI Testing

The BCI tests were primarily from Traffic Route Test located across the network to TCARS/PTARS connected to 055 267 211. As indicated previously, the testing time for such calls is typically 24* seconds (minimum). The actual time being 43.9 seconds (ref doc. N00006).

The analysis of times indicated for ALL tests reported from all TRT's listed, reveals major conflict in call traffic to the test numbers. Test times allocated from specific originating exchanges were in conflict with other simultaneous calls made from other locations. As the same test terminating number was also allocated to multiple originating testing (TRT) units, serious levels of call conflict would naturally occur.

Such significant (this is significant as the level of simultaneous call generation as documented could and would result in call conflict generating a HIGH level of fault reports during the testing regime) overlap of testing time & testing period WOULD result in high levels of call failures due to congestion, & busy number. (simultaneous calls to the same number where only 1 call can be successful MUST and WILL result in a large number of call failures being recorded – the test call is not successful – CALL FAILURE)

No such failures were reported. Hence the only realistic technical conclusions that can be derived are that the indicated tests were:

- a. Not undertaken
- b. Incorrectly recorded and documented – fraudulently or accidental it is not possible to tell as replication of the tests is not possible nor that the original test notes are not available for analysis
- c. Testing periods flawed and were not undertaken as specified
- d. Testing processes flawed and calls to different terminating numbers were undertaken
- e. Testing processes incomplete – when call conflict was noted the tests were abandoned and results incorrectly documented

5.3.2. NEAT Testing

As indicated, the NEAT test requires:

- a. Installation of NEAT test units to a dedicated test number.
- b. Test calls held for minimum of 100 seconds.

The test numbers being located in the Portland exchange (number range allocated for Cape Bridgewater subscribers).

The allocated test number being 055 267 211, being the same number allocated for test calls as part of the Bell Canada International testing regime.

Discrepancies associated with the NEAT testing include:

- a. Timing of recorded test are in conflict with the TRT test from numerous exchange – utilising same test numbers over same test period. (as mentioned in section 5.3.1 high levels of call failure would have been recorded with such call conflict – this was NOT recorded therefore major discrepancies in the testing and reporting process has been identified)

- b. NEAT testing unit does not utilise the TCAR/PTAR terminating set (as NEAT test is a Ericsson designed system it utilises a dedicated terminating set. This set is not the same unit as the TCARS/PTAR. The TCARS/PTAR is not compatible with the NEAT testing system

The results of the test do NOT record any level of "busy connection" (calls failing due to simultaneous calls to the test answering unit) as would be expected (eg encountering busy number) from the high level of duplicated calls to the test number.

Similarly, the call terminating set utilised is not the same unit specified for the two different test regimes occurring at identical time period. Hence for simultaneous calls to be made to the same terminating number from two different testing systems the terminating set would have to be change for calls from both system to be successful. The time period for all calls from both originating systems makes this impossible to achieve

The results from both testing regimes are therefore:

- a. Flawed – as simultaneous calls by two disparate systems to the same number is impossible to achieve
- b. Lack creditability – results cannot be replicated nor can the raw data be examined
- c. Dishonestly reported - to achieve the results as document significant fabrication of the document and report would be necessary.

and as such fail to meet the stated operational standard & quality contrary to the claims stated in the reports to Austel dated 10 November 1993 (Telstra doc K35002), BCI Report of 10 November 1993, and others.

5.3.3. 008/1800 Testing

Under the Service Verification Testing (SVT) testing of the 008 Service, terminating on service number 055 267 267, a number of calls were made via the new 1800 service terminating on service number 055 267 298.

During the early 1990's when the 008 service was being replaced by 1800, two separate and completely different networks were in operation. Both calls through the 008 & 1800 networks would translate to the customers end service.

The 1800 used the IN Network (Intelligent Network), and is via digital network. Concurrently, the 008, which was superseded by the 1800 was via the analogue (plus digital as necessary) network. Hence dual trunking of calls was occurring (that is calls via the 008 and 1800 service both terminated at the same destination BUT the route take by both calls were via two entirely different paths and equipment-hence no comparisons of call processes were accurate or possible.

Similarly separate billing systems were operating.

Therefore calls via the 008 & 1800 network were completely separate & different. To claim that a 1800 call is equivalent to a 008 call & translating to a different number is completely false & erroneous.

All tests carried out on the 1800 network are rejected as being irrelevant to the issue. Telstra was aware of the changes as the old obsolete 008 network was to be removed under Telstra network replacement plans & the fact that the calls were via old (008) and new (1800) technologies. Hence dual trunking of the calls was occurring, and did so for approximately 18 months to ensure that the amount of 008 calls could be reduced by advertising and documentation change by the customers.

5.4 Call Event Monitoring

Monitoring of services at the subscribers premises is obtained only when specialised equipment is provided such as call detail recording systems or ELM event recorders.

Calls being made to the service number are recorded. Any activity (eg ringing, handset lift off, dialling etc) is recorded in real time as it occurs. All activity associated with the handset (event) is recorded

All activity at the subscribers premises is recorded, including short derivation incoming calls to the service number – eg. phantom calls (refer section 2.5).

Although acknowledge in the report no formal investigation appears to have been undertaken as no testing of services or data error rate testing of the multiplexing equipment was mentioned or recommended.

As the RSM equipment is a multiplexing of services via a PCM system from Portland, the failure of Telstra to carry out suitable & professional testing (eg. bit error rate tests of multiplexing system & link etc) is a serious concern as this is a basic system check and only this level of testing on such digital equipment will verify if the system is operating correctly. If such test are not undertaken the correct operation of that system and all related equipment cannot be guaranteed.

High or abnormal error rate can & will impact on the operation of the RSM equipment for both incoming & outgoing calls but generating or losing vital operational data. Such data loss can manifest in a numerous number of ways from generating fictitious (phantom) calls or more serious loss of call and call data

As the function of the RSM is to signal the service telephone & convert analogue (voice) to digital code, inferior performance of the equipment (including transmission system) would have detrimental impact on the overall operation & service delivery on both incoming & outgoing calls.

It is my opinion the failure of Telstra to undertake such tests (no evidence exists to confirm any such tests take place), is an indication of their failure to delivery/confirm the "service quality" to Cape Bridgewater.

5.5. Call Charge Analysis (CCAS)

Incoming & outgoing call traffic is recorded at the node (eg. Warmambool) to allow billing of successful calls to take place.

Extensive examination of the available reports (Call Charge Analysis reports) was undertaken. These reports are produced for all incoming and outgoing calls and forms the basis of the Telstra billing system data for each customer

Areas of interest were the "Service Verification Tests" (SVT) reported to have taken place from the following services:

055 267 267

055 267 60

055 267 230

Twenty calls from each service number listed above were reported to have taken place.

Austel (Austel doc 94/0268 of 11 October 1994, 16 November 1994 and 9 November 1994) had specified the test calls (all 20/service) had to be "held" for a minimum of 120 seconds to ensure adequate testing time elapsed, and hence transmission quality is confirmed or measured.

Examination of the CCAS printout for the day specified (29 Sept 1994):

20 calls from each service number DID NOT take place;

The calls attempted WERE NOT held for the prescribed 120 seconds;

NO incoming test calls were made to the services in question. The CCAS printout for the period DO NOT indicate any calls to or from the service numbers in question. As this data is used for billing purposes ALL such call activity must be recorded

It is my opinion that the reports submitted to Austel on this testing program was flawed, erroneous, fictitious, fraudulent & fabricated, as it is clear that not such testing has taken place as Telstra's own call charge system DOES NOT record any such activities. Therefore the results are flawed or did not occur.

From these conclusions the statutory declarations by Gamble & others must be considered to be questionable and may be considered to be incorrect to say the least.

6. CONCLUSION

The regime of test calls established to verify the quality of the services at Cape Bridgewater must be considered to flawed and erroneous.

The fact that overlap of test calls from numerous locations & types of tests to specific test numbers indicates a serious flaw in the testing process, or simply that the tests were not carried completed successfully as stated.

As the Cape Bridgewater RSM is not a telephone exchange, no replicable tests were carried out to verify the conditions being experienced by the subscribers.

The so called tests reported to have taken place at Cape Bridgewater RSM cannot be verified by examination of the normal exchange based call data, neither incoming or outgoing. In addition, the failure to carry out the number & duration of the prescribed tests (eg. 20 calls per service, each held for 120 seconds), indicate the erroneous & fraudulent nature of the report to Austel.

The failure of Telstra to carry out standard performance tests (eg. bit error rate etc), at the multiplexer (RSM) at Cape Bridgewater is alarming & of concern. CCAS data over recent times (eg. 2004-2006), indicate a continuing & worsening level of "Outgoing Released During Setup" calls (ORDS). These reports on the CCAS data indicate that the calls are not successful in the call set up stage of the connection or is lost in the network

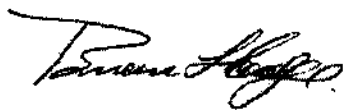
Such reports would indicate that the service was operating in a very unsatisfactory manner. The common factor being the multiplexer system & digital link, Portland exchange or subscriber usage.

However, the continuing report of phantom calls, lost faxes & missed calls ALL point to the network including the RSM at Cape Bridgewater being the source of the problem. As a significantly bit error rate in the data network can present it self to the end user in many different ways. Unfortunately all being a degradation of services

Telstra's failure to carry out detailed technical testing of the system, or to fabricated TRT calls to services not located at the source of the problem (eg, RSM) is negligent.

As the test cannot be reproduced or verified by an independent body, Telstra has failed to meet basic Professional Standards. As such, the results are flawed, erroneous & fraudulent.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Brian Hodge', with a stylized flourish at the end.

BRIAN HODGE, B. Tech, MBA
(B.C. Telecommunication)

7.0 Appendix 1

Mr. Brian Hodge Btech. (Electronics), MBA (Uof A).

- Mr. Hodge has been involved in all facets of the telecommunications industry for over 40 years.
- Mr. Hodge commenced with the PMG in Adelaide in 1961 as a technician in training. This was a 5-year specialist industry based training scheme at the time recognized as the leading course of its type in Australia.
- After completion of the training Mr. Hodge, experienced all fields of technical work including system installation and maintenance.
- In the late 1960s Mr. Hodge moved to what was then classified as the sub/para professional ranks as a technical officer and draftsman. Then able to gain experience in medium to large design and installation projects. This included total project control and management.
- From 1970 Mr. Hodge commenced and completed tertiary studies at the University of South Australia (formerly the Institute of Technology) initially in the degree (Bachelor of Technology) specialising in electronic engineering.
- The last three years of this course was completed under a trainee engineer position awarded to Mr. Hodge.
- From the mid 1970 to the mid 1980s Mr. Hodge held various engineering positions in Telecom Australia (now Telstra) covering all disciplines within the organisation.
- With changes in the market place especially in the terminal products field, Telecom Australia introduced to the Australian market new generation products that are now accepted as the minimum requirements for business.
- Mr. Hodge was selected to lead and operate a division to introduce the new range of products to the market place and re-educate the technical, sales and support staff in use and support of the products(s). This was a major change in direction not only for Telecom Australia (Telstra) but also the market place and the customers.
- During this time Mr. Hodge commenced and completed, on a part time basis (after hours only) a Master of Business Administration (MBA) at the University of Adelaide. The Masters Degree being awarded in 1986.

- From 1986 Mr. Hodge was appointed in to senior management in Telecom Australia directly and indirectly responsible for more the 500 staff through out South Australia and Northern Territory.
- In December 1990 Mr. Hodge left Telecom Australia and started Beta-Com Pty Ltd as a consultancy and facilities management company. Beta-Com has recently diversified into Audio Visual and Video Conferencing systems.
- Since deregulation of the telecommunications market in Australia Mr. Hodge has been involved in a number of companies covering both carrier service and terminal products. All companies have successfully traded for minimum of 8 years and have been or are in the process of being purchased by larger and more diverse organisations.
- Mr. Hodge commenced Digital Communication Systems in 1999 and selected and marketed a range of products and services to the Adelaide market.
- Digital Communication Systems in 2007 merged with a national company based in Sydney
- Mr. Hodge is now the Adelaide based Business Development Executive for this group.

Senator ALSTON—So Bell Canada made a contribution to that, presumably, but you are able to go further, are you?

Mr Davey—Yes.

Senator ALSTON—Is that proposition something that you have taken directly into account? I presume you have seen the minute, have you?

Mr Davey—Quite frankly, I cannot recall seeing that precise minute.

Senator ALSTON—Perhaps you might come back to me on any action that has been taken in response to this, if you have indeed previously seen it. If not, you might indicate what action you think should be taken as a result of seeing it. Can you do that?

Mr Davey—Certainly.

Senator ALSTON—You said that you hoped to be able to complete and presumably release your report in March.

Mr Davey—Mid-March, we are aiming for at this point.

Senator ALSTON—At that time, could you also include the total cost to Austel of the investigation; in other words, the amount of resources, human and financial, that has been absorbed by this exercise?

Mr Davey—I see no reason not to. I do not know whether we can give an accurate estimate—we have not until more recently kept it. It has been absorbed in our usual functions. We have not set aside specific resources until more recently.

Senator ALSTON—But it has been a major project.

Mr Davey—Yes. There is no doubt about it.

Senator ALSTON—It ought to be desirable to try to quantify the cost?

Mr Davey—Yes.

Senator ALSTON—Are you developing indicative performance standards to ensure that carriers provide an adequate phone service?

Mr Davey—Yes, indeed. In the context of the COT cases we are working specifically to get an agreement on a standard upon which we can sign off that the complainants, if they

settle with Telecom, are receiving an adequate standard of telephone service at the time.

Senator ALSTON—Will that be backed up by direction?

Mr Davey—If necessary, yes.

Senator ALSTON—What about in relation to others, apart from the top eight?

Mr Davey—It would apply in relation to all of them. What we are aiming to do is to get an across-the-board standard that people can sign off and know these sorts of things.

Senator ALSTON—Meaning both carriers or the three carriers?

Mr Davey—It will apply principally to Telecom as the provider of the local loop.

Senator ALSTON—Very well. Have you issued any directives to Telecom in relation to COT matters?

Mr Davey—Yes. They are published in the 1992-93 annual report, I think.

Senator ALSTON—In relation to COT?

Mr Davey—I think it is. Do not hold me to it but we do publish our directions in the annual report.

Senator ALSTON—Have any directions been issued since that time?

Mr Davey—It has not been necessary to issue further directions.

Senator ALSTON—Of the 257 consumer complaints that Austel received in 1992-93, approximately 91, according to the report, were referred to other agencies. Does that sound right?

Mr Davey—It sounds right.

Senator ALSTON—Why did not Austel immediately refer COT's allegations of voice recording to the federal police instead of waiting for the minister to refer the matter to the Attorney-General and then on to the federal police?

Mr Davey—That is a question that I think I need some further detail on.

CHAIRMAN—Minister, we might confirm that you have accepted the questions from Senator Alston and Senator Tierney.

Senator McMullan—Yes, I accept.

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AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

94/0269

4 July 1994

Mr G Schorer
Golden Messenger

Facsimile No: (03) 287 7001

Dear Mr Schorer

**IMPLEMENTATION ACTION ARISING FROM AUSTEL COT CASES
REPORT**

I am writing to inform you of significant implementation actions which have occurred subsequent to AUSTEL's findings and recommendations on the COT Cases.

As you know Telecom has agreed to implement the AUSTEL Cot Cases Report's recommendations. AUSTEL for its part has an obligation to monitor Telecom's performance in implementing those recommendations. Consistent with this we have allocated a staffing resource to be responsible for this monitoring. This task will include:

- ensuring timely receipt of Telecom's quarterly reports on the progress of implementation; and,
- following up any inadequacy of implementation action.

We will provide quarterly briefings to the Minister consequent upon Telecom's quarterly reports and publish bulletins on the implementation progress.

You will be aware that the "fast track" arbitration arrangements are currently in place for the four original COT Cases. In this context, the appointment of the arbitrator, rules for conduct of proceedings, time limits and documentation obligations have been settled. In conjunction with AUSTEL and the

5 QUEENS ROAD, MELBOURNE, VICTORIA
POSTAL: P.O. BOX 7443, ST KILDA RD, MELBOURNE, VICTORIA. 3004
TELEPHONE: (03) 828 7300 FACSIMILE: (03) 820 3021

*Filed to
(06) 277 3308
on 5/7/94
2.*

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Telecommunications Industry Ombudsman (TIO), Telecom has also recently settled the rules of arbitration for the 12 COT type cases referred to it by AUSTEL, as required under recommendation 5 of the COT Cases report. The TIO has distributed these rules to the respective parties. AUSTEL participated in the settling of these rules of arbitration to meet our responsibility that they be in general conformity with the settlement procedures for the four original COT cases as outlined in AUSTEL's report.

The TIO is facilitating arbitration arrangements for both groups of claimants. All contact on matters relating to arbitration and provision of documentation etc. should be with that office on phone (03) 277 8777 and facsimile (03) 277 8797. Interstate callers may utilise the TIO's free call numbers, phone 1800 062 058 and facsimile 1800 630 614.

Telecom has now developed its service verification tests for network service performance. Again AUSTEL participated in the development of this document ✓ to ensure conformity with the recommendations of the COT Cases report. The following points are of note in regard to the operation of these tests:

- the test results during the initial 6 month period are to be reported to AUSTEL on a monthly basis
- the verification tests will be reviewed after this 6 month period to determine whether any of the tests require modification; this review will also take into account changes to telecommunications technology and that the current service verification tests address only incoming calls. ✓

The Telecom point of contact to discuss matters relating to these tests is:

Mr Steve Black
Group General Manager
Customer Affairs
Phone: (03) 632 7700 Facsimile: (03) 632 3241

For your information, in any future cases of Difficult Network Faults which may arise the service verification tests will provide a reference level of technical assessment and service performance within the context of Telecom's Difficult

Network Fault resolution process. This resolution process will be in line with recommendation 24 of the COT Case report and recommendation 3 of the Coopers & Lybrand report.

I hope the information provided in this letter is helpful. As you can see significant actions are now proceeding consistent with AUSTEL's report. Contact on many of these actions is now external to AUSTEL and I have identified those contact points in this letter.

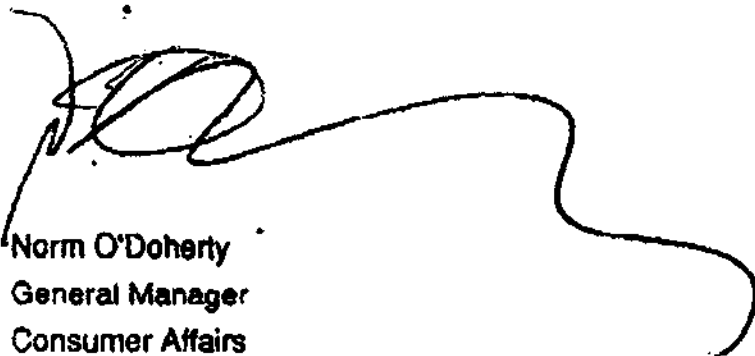
Any residual communication with AUSTEL for matters arising from the COT report recommendations can be made to the designated liaison officer:

Mr Bruce Matthews

phone (03) 828 7443 facsimile (03) 828 3021.

Our strong preference is for written communication. This tends to provide a quicker focus upon issues for which clarification is sought, and in the long run, is the most economic use of limited resources. AUSTEL is not in a position to advise on either technical issues or interpretation of data in regard to issues raised in connection with arbitration. I seek your co-operation in using the appropriate contacts.

Yours sincerely



Norm O'Doherty
General Manager
Consumer Affairs

cc Mr Warwick Smith, Telecommunications Industry Ombudsman
Mr Steve Black, Group General Manager, Customer Affairs, Telecom

IN THE MATTER OF an arbitration pursuant
to the Fast Track Arbitration Procedure dated
21 April 1994

Between

ALAN SMITH

Art 7.
Claimant

and

TELSTRA CORPORATION LTD
trading as
TELECOM AUSTRALIA

Telecom

WITNESS STATEMENT OF PETER HENRY GAMBLE

I, PETER HENRY GAMBLE of 8/242 Exhibition Street, Melbourne in the State
of Victoria, solemnly and sincerely declare and affirm as follows:

EMPLOYMENT DETAILS

Introduction

1. My name is Peter Henry Gamble, of 8/242 Exhibition Street, Melbourne. I obtained a Bachelor of Science (Technology) degree, specialising in electronics engineering, from the University of New South Wales in 1968.
2. In December 1965 I joined the then PMG's Department as an assistant technician and was promoted to an engineering position on graduation. Since then I have held a number of engineering positions, before being promoted to executive level in 1985. I am currently the Manager, Engineering and Technical Consultancy, Customer Affairs Group. My current work includes the management of a small team of engineering and technical staff who are investigating and analysing complaints received by Telecom from customers who are in dispute with Telecom, providing assistance to regional staff on these issues and supervision of the Service Verification Test process. Attached hereto and marked "PHG - 1" is a copy of my resume.
3. During my career with Telecom, I have undertaken a number of engineering, business, marketing and management training courses. I have been using computers to assist with my work since completing a one year course at post graduate level in computing in 1967. This has included the development of a number of sophisticated data processing, forecasting, modelling and data base systems.

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Response Unit, have been developed by Telecom in conjunction with AUSTEL and have been approved by AUSTEL as the basis upon which a telephone service at the Service Delivery Point may be considered to be operating satisfactorily at the time the tests were conducted. The Service Verification Tests measure:

- selected electrical parameters of the customer access network
- the ability of the exchange to deliver calls to the Service Delivery Point
- the capability of the network to successfully connect calls from various network origins to a Line Interface Circuit adjacent to the customer's service, simulating the customer's line and line interface connection.

35. The service under test is compared with a required set of outcomes as detailed in G 001. When the required outcomes are met, the service to that customer will be considered to be operating satisfactorily at the Service Delivery Point by both Telecom and AUSTEL.
36. Prior to initiating the test, I discussed the typical incoming call profile of Mr Smith's service with him, noting in particular several areas where callers had had difficulty in contacting him. I also confirmed with him that his three telephone lines would be measured as part of the Customer Specific Line Tests (Section 6.1) and that the Public Network Call Delivery Tests (Section 6.3) would include a 1 800 number (1 800 numbers replace 008 numbers), the routing of which would mimic his 008 number. The Customer Line Hunt Group Tests were not relevant as Mr Smith does not have a line hunt group.
37. The Customer Specific Line Tests were conducted on 29th September 1994. I was present on the Camp Bridgewater Holiday Camp site while these tests were being carried out and observed a number of the tests being conducted by the National Network Investigations Staff. Also present were two of my staff, Mr Bruno Tonizzo, a Principal Telecommunications Technical Officer Grade 2, who has been involved as an observer at all of the SVTs conducted to date, and Mr Colin Roberts also a Principal Telecommunications Technical Officer Grade 2, who participated in the discussions that I had with Mr Smith on that occasion. We also visited the Portland Exchange and the Cape Bridgewater RCM site. The Public Network Call Delivery Tests were conducted from 17th September 1994 to 24th September 1994. The report from National Network Investigations, dated 21st October 1994 and containing the detailed results of all of the tests, was forwarded to Mr Smith on 8th November 1994. (Ref 4.35 4.40)
38. The service passed all of the Customer Specific Line Tests and the two Public Network Call Delivery Tests that were carried out. One Call Delivery Test was carried out to a number (055 267 266) close to his service number and achieved a success rate of 100%. The second was carried out to a 1-800 number, which simulated the routing to his 008

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number, achieving a success rate of 99.8%. Both of these results are above the level established for call connection at the individual customer level. The service is therefore considered to be operating satisfactorily.

Overall Conclusion

39. In addition to the routine maintenance and investigations carried out by the Network Operations and service delivery Technical staff, I have conducted a series of detailed tests and analysis of data pertaining to Mr Smith's service, the Cape Bridgewater RCM and the Portland AXE104 exchange.
40. The detailed CAN analysis and measurements conducted in November 1993 showed that the CAN was within the design specifications examined and was generally satisfactory with the exception of insulation resistance, where the results were inconclusive. It is noted that there were no consistent complaints by Mr Smith during the November 1993 to May 1994 period relating to noise or crosstalk which would have been evident with low insulation resistance. Further measurements in May 1994 confirmed that the insulation resistance was satisfactory. In my opinion the insulation resistance did not have an impact on the service Mr Smith was receiving.
41. The analysis of the call data, sampled from actual traffic, and the fault reporting data showed that the performance of the Cape Bridgewater RCM and the Portland AXE104 was satisfactory during the period over which the data was collected.
42. The customer dialling study which documents customer dialling errors shows some possible explanations for the incidents that Mr Smith has experienced. It should be noted that the types of customer dialling errors documented are exhibited by all customers and affect all customers.
43. The SVT, carried out in September 1994, showed that the service passed the Customer Specific Line Tests and the Public Network Call Delivery Tests. Accordingly, the service was deemed to be operating satisfactorily at that time.
44. My overall conclusion based on the analysis of the selected performance parameters outlined above is that for the periods covered by these investigations (which commenced in July 1991 and concluded in September 1994), Mr Smith's service met appropriate performance levels and therefore appeared, in my opinion, to be operating satisfactorily.

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AND I MAKE this solemn declaration conscientiously believing the same to be true and correct.

DECLARED at Melbourne
in the State of Victoria
this 12th day of December 1994.

Peter H. G. G. G.

Before me:


CHRISTOPHER MARK McLEOD
Frederick Hollingshead & Page
101 Collins Street, Melbourne
A Solicitor holding a current
Practising Certificate pursuant
to the Legal Profession
Practice Act 1958.

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FAX FROM ALAN SMITH
C. O. T.

DATE 2.10.94

FAX NO: 055 267 230

PHONE NO: 008 816 822

NUMBER OF PAGES (including this page) 1

FAX TO: Mr Ted Benjamin
General Manager
Customer Response Unit
Telecom

Dear Mr Benjamin,

Thursday 29th September, 1994, Telecom were present at the Cape Bridgewater Holiday Camp. Mr. Peter Gamble was the leading technical adviser and they were here at Cape Bridgewater to do a verification test on my lines. Before any discussions took place I was asked how many phones I had connected to my three lines. I stated that there were two on the 267 267 line (one being an extension phone in the kiosk, the other one in the office); there was a fax machine incorporated with a phone on 267 230 and also a single-line Gold Phone.

Two of the technicians then went over to the main hall, where both the Gold Phone and the Kiosk phone are connected and arrived back in the office about 10 minutes later. It was then that I was asked, in front of a house guest, what else I have connected on my lines - do I have another extension phone? The answer was then, and is now, NO. After a discussion the two technicians left the office.

Five or ten minutes later Peter Gamble informed me that a technician had left the kiosk phone connected, across the line.

My own tests show that the kiosk phone, being a wall-phone, and 360mm from the bench below, has nowhere to hang or sit when disconnected. When this phone is disconnected the in-coming cord from the phone is 160mm. There is no way anyone can mistakenly leave this extension phone across the line. There could have been NO mistake. The phone could not have been left across the line and this is FACT.

I am now asking Austel to enquire as to what was connected to my line to make these technicians question me in the beginning. They seemed somewhat lost, and they had a red mobile phone with them. If there is a simple explanation, then please provide me with that explanation.

Because of the way Telecom have performed their misleading and deceptive conduct in the past, one's mind and thoughts are led to continue to distrust them.

Sincerely,

Alan Smith

cc Warrick L Smith, Telecommunication Industry Ombudsman
Cliff Matherson, Austel Melbourne
Dr. Gordon Hughes, Hunt & Hunt, Lawyers, Fast Track (Arbitrator)

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FAX FROM:	ALAN SMITH C. O. T.	DATE:	10.10.94
FAX NO:	055 267 230		
PHONE NO: 006 816 522		NUMBER OF PAGES (including this page)	1
FAX TO:	Mr Ted Benjamin General Manager Customer Response Unit Telecom		

Dear Mr Benjamin,

It is not you I disbelieve, it is the men who were performing verification tests on the three lines at Cape Bridgewater.

↘ A copy of a Statutory Declaration follows this fax. When I get to a stationery shop I will sign one myself regarding the facts as stated by Ms Ezzard.

I have almost acquired proof of another lie, made by one of the men present. When I am able to substantiate this proof I will table this information.

Mr. Benjamin, one of the four men who were at this camp on the day in question had been here before, some three months ago. On 26/5/94 this same Telecom employee had been in the same kiosk where he now says the phone was left connected by mistake. For your ears - Mr Peter Gamble asked me in my office if I had anything other than the fax machine (with phone attachment) and the incoming phone line in the office (this makes two phones lines actually coming into this office). He asked me in easy hearing distance of Ms Ezzard, who was in the house lounge "Have you got any other extensions attached to your phone lines?" I said "NO". I then had a look at the electronic equipment he was using and a needle was still registering from side to side.

I asked emphatically "Have you disconnected both phones over in the hall, the Gold Phone and the Kiosk Phone?" The chap who had been here before said "Yes." We stood in limbo for seconds, minutes. Then the chap who had been here before walked out of the office with the other Telecom person.

A few minutes later I asked Peter Gamble what was wrong. It was then that he said that the Kiosk Phone had been left connected by mistake. This is emphatically incorrect.

I now ask you to ask Peter Gamble what they were saying on the red mobile phone just a few minutes before. Whatever you say, I believe that they were talking to another Telecom chap in the RCM at Cape Bridgewater.

Mr Peter Gamble has told me on two occasions that he has experienced phone problems while contacting 267 267. One was an RVA, the other was when he had been talking to me on the 267 267 number and my fax was playing up again. After the fifth or sixth short ring he asked me to

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pick up the phone the next time the fax rang. I did and an engaged signal was heard; not only he me but also by a house guest. Mr. Gamble stated then and on one other day, that he would write a letter of acknowledgement of this fact but to this day he has not.

We are supposed to work with Telecom during this Arbitration Procedure. The long-time Telecom Management Team are doing Telecom a great harm for the future but they just don't see it. This is what is sad. BHP, Esso, Western Mining, I have worked for them all. No management has ever behaved in the same manner as the Telecom Corporate Team now in office.

Considering that you have already responded to my questions on why and what happened during this Verification Testing, I wonder how you will reply now?

Sincerely,

Alan Smith

cc Dr. Gordon Hughes, Hunt & Hunt, Lawyers, Fast Track (Arbitrator)
Warrick Smith, Telecommunication Industry Office.





AUSTEL

AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

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94/0269

11 October 1994

Mr Peter Gamble
Manager, Engineering and Technical Consultancy
Customer Response Unit
TELECOM

Facsimile: (03) 634 9930

Dear Peter

ISSUES CONCERNING SERVICE VERIFICATION TESTS

Following on from your telephone conversation today with Mr Cliff Mathieson, I confirm that AUSTEL requires a written statement from Telecom detailing the deficiency of the current testing process for the "Call Continuity / Dropouts to Neighbouring LIC" test contained in the Service Verification Tests (SVT). This statement should also detail the action Telecom intends to take to address this deficiency.

AUSTEL notes that the SVT results so far provided by Telecom are inconclusive because they do not comply with the required outcome of Section 6.3.2 of the SVT. Confirmation that calls were held for 40 seconds does not confirm these calls would have been held for the required 120 seconds.

On another matter, I understand Mr Bruce Matthews wrote to you on 29 September 1994 following up AUSTEL's earlier request for a copy of test data produced by Telecom in conducting the SVT. I also understand that the nature of the data required by AUSTEL was further confirmed in subsequent conversations with Mr Matthews and Mr Mathieson. As noted in these conversations, the required data is that produced in performing section 6.3 of the SVT, and should identify the date and time of day test calls were made from each origin, and the technology type of the originating exchange. As AUSTEL's review of the SVT will take place in November 1994 this data is required as soon as possible.

Yours sincerely

Norm O'Doherty
General Manager
Consumer Affairs

cc Mr Steve Black

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AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

94/0269

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16 November 1994

Mr S Black
Group General Manager
Customer Affairs
TELECOM

Facsimile No: (03) 632 3241

Dear Steve

SERVICE VERIFICATION TEST ISSUES

The recent SVT results for Mr Alan Smith raise some issues on which AUSTEL requests clarification, as follows.

- The letter provided to Mr Smith informing him of his SVT results notes that the Public Network Call Delivery Tests relevant to his 008 service used a 1-800 number that simulated the routing of his 008 services. AUSTEL is seeking confirmation from Telecom that the network equipment utilised on calls to the 1-800 number is the same as that which would have been used by calls to Mr Smith's 008 service (with the exception of the termination number).
- The Call Distribution Tables on pages 12 and 14 record that the total calls made to each number are in excess of 600. AUSTEL requests that Telecom detail the process which determines the "1st 500" calls under test 6.3, given that a combined total of over 600 calls have been made from multiple origins.

I would also like to take this opportunity to formally confirm three issues raised at our recent meeting of 9 November 1994.

- (1) Telecom will provide AUSTEL with the detailed individual call data (ie. time of day & origin of call) which has been the subject of previous correspondence from AUSTEL. This data was originally requested by AUSTEL on 25 August 1994. As discussed at our meeting, the data is

5 QUEENS ROAD, MELBOURNE, VICTORIA
POSTAL: P.O. BOX 7443, ST KILDA RD, MELBOURNE, VICTORIA, 3004
TELEPHONE: (03) 828 7400 FACSIMILE: (03) 820 3021

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required by AUSTEL as part of our review of the SVT, and will be required by the consultant assisting AUSTEL in this review. (Please note that call data for all the test calls is required, not just the data for the first 500 calls). AUSTEL requires this data by 23 November 1994. The provision of this data by this date is essential to the effectiveness of AUSTEL's review of the SVT.

- (2) In the near future Telecom will conduct the "Demonstration Tests" on the services of customers for whom the SVT have been completed. AUSTEL notes that the SVT were conducted a considerable time ago on some of these customer's services. Although these tests are not part of the SVT, this data will be used by AUSTEL in our review of issues related to the SVT. The results from the "Demonstration Tests" will also be provided to our consultant, and AUSTEL requires some of these test results by 23 November 1994.

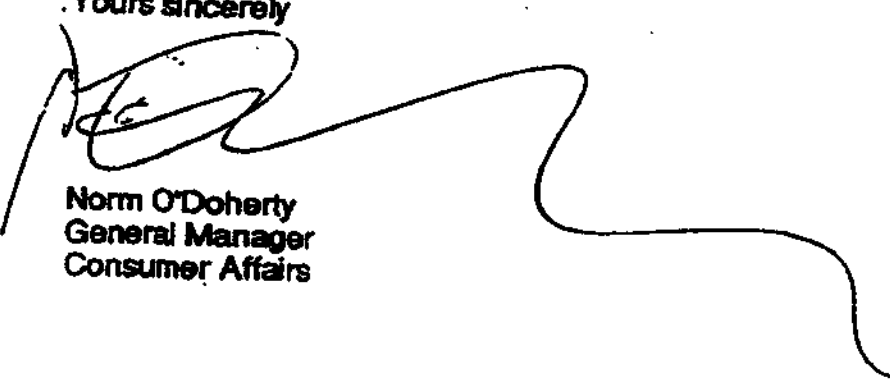
- (3) That Telecom will shortly provide, as requested in AUSTEL's letter of 11 October 1994, a statement on:

the deficiency of the current testing process for the "Call Continuity / Dropouts to Neighbouring LIC" test contained in the Service Verification Tests (SVT). This statement should also detail the action Telecom intends to take to address this deficiency.

This statement will be provided to AUSTEL's consultant as part of the review of the SVT, and is required by 23 November 1994.

The three matters detailed above have been all been outstanding for some time. I would be grateful if you could address your personal attention to ensuring the required information is provided to AUSTEL by the date requested.

Yours sincerely


Norm O'Doherty
General Manager
Consumer Affairs

267211	IA	1940929	12:10:55	RINGINGS: 2	100:03:00:00:53
267230	OAQ	1940929	12:10:12	1818311344038924	100:54:00:00:47
267267	IA	1940929	12:14:03	RINGINGS: 4	100:05:00:00:36
267211	OAQ	1940929	12:14:01	267267	100:22:00:00:25
267211	OUQ	1940929	12:17:57	267267	100:17:
267267	IU	1940929	12:18:00	RINGINGS: 10	100:16:
267267	IA	1940929	12:19:03	RINGINGS: 4	100:06:00:00:03
267211	OAQ	1940929	12:19:00	267267	100:23:00:00:02
267211	OUQ	1940929	12:23:45	267267	100:23:
267267	IU	1940929	12:23:49	RINGINGS: 14	100:22:
267267	IA	1940929	12:25:03	RINGINGS: 2	100:09:00:00:59
267211	OAQ	1940929	12:24:59	267267	100:24:00:00:41
267267	OAQ	1940929	12:26:43	231722	100:28:00:01:22
267267	OAQ	1940929	12:28:33	234780	100:25:00:01:25
267267	OAQ	1940929	12:30:25	231722	100:27:00:03:05
267267	OAQ	1940929	12:48:43	231722	100:32:00:00:51
267267	IA	1940929	12:56:05	RINGINGS: 4	100:04:00:00:26
267267	IA	1940929	13:05:33	RINGINGS: 10	100:14:00:02:46
267267	IA	1940929	13:08:47	RINGINGS: 9	100:13:00:05:56
267230	OUQ	1940929	13:36:54	267267	100:07:
267267	IU	1940929	13:36:59	RINGINGS: 2	100:04:
267230	OUQ	1940929	13:40:47	1818311344038924	100:53:
267230	OUQ	1940929	13:41:43	1818311344038924	100:38:
267230	OAQ	1940929	13:42:23	1818311344038924	100:54:00:01:06
267230	IA	1940929	13:44:44	RINGINGS: 4	100:04:00:01:54
267230	IA	1940929	13:47:18	RINGINGS: 10	100:14:00:03:38
267230	OAQ	1940929	14:05:25	036903322	100:34:00:00:09
267260	OAQ	1940929	14:06:37	1818311344038924	100:54:00:01:46
267260	OAQ	1940929	14:09:36	1818311344038924	100:47:00:00:09
267230	OAQ	1940929	14:08:54	036148711	100:31:00:01:11
267230	OUQ	1940929	14:11:01	074434022	100:17:
267230	OAQ	1940929	14:12:07	032877099	100:25:00:00:02
267260	IA	1940929	14:10:51	RINGINGS: 10	100:14:00:05:17
267267	IA	1940929	14:16:01	RINGINGS: 8	100:10:00:00:20
267260	IA	1940929	14:16:41	RINGINGS: 10	100:13:00:02:28
267230	OAQ	1940929	14:15:38	078925040	100:26:00:15:01
267267	IA	1940929	14:39:09	RINGINGS: 6	100:08:00:00:09
267230	OAQ	1940929	14:39:50	036903322	100:29:00:00:04
267260	IU	1940929	14:40:18	RINGINGS: 11	100:19:
267230	IA	1940929	14:40:50	RINGINGS: 4	100:05:00:00:41
267267	IA	1940929	14:41:21	RINGINGS: 4	100:05:00:00:12
267230	OAQ	1940929	15:07:49	074434022	100:31:00:00:20
267230	OAQ	1940929	15:13:23	032877099	100:22:00:01:26
267230	OUQ	1940929	15:15:11	062497444	100:29:
267230	OAQ	1940929	15:15:41	062567777	100:28:00:07:00
267267	IA	1940929	15:31:10	RINGINGS: 4	100:06:00:00:07
267230	OAQ	1940929	15:23:21	008335526	100:31:00:11:27
267267	OAQ	1940929	15:35:24	036903322	100:33:00:02:24
267230	OUQ	1940929	16:01:20	032778777	100:22:
267267	IA	1940929	16:06:08	RINGINGS: 6	100:07:00:05:21
267267	IA	1940929	16:14:09	RINGINGS: 6	100:08:00:00:16
267230	OAQ	1940929	16:24:10	032877099	100:24:00:00:39
267267	IA	1940929	16:39:15	RINGINGS: 6	100:09:00:46:18
267230	OAQ	1940929	18:02:07	057841375	100:27:00:02:00
267230	OAQ	1940929	18:05:20	053428357	100:27:00:00:29
267230	OAQ	1940929	18:06:35	053428591	100:29:00:04:54
267267	IA	1940929	20:33:41	RINGINGS: 7	100:10:00:04:15
!LOGIN	1940930	00:50:15	OPER: AUTODUMP		
!SET	1940930	00:50:12	OPER: AUTODUMP		
!TIME					

267211	IA	940929	12:10:55	RINGINGS: 2	100:03:00:00:53
267230	OAQ	940929	12:10:12	1818311344038924	100:54:00:00:47
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267267	IU	940929	12:23:49	RINGINGS: 14	100:22:
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267267	IU	940929	13:36:59	RINGINGS: 2	100:04:
267230	OUQ	940929	13:40:47	1818311344038924	100:53:
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267260	IA	940929	14:10:51	RINGINGS: 10	100:14:00:05:17
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267230	OAQ	940929	14:15:38	078925040	100:26:00:15:01
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267260	IU	940929	14:40:18	RINGINGS: 11	100:19:
267230	IA	940929	14:40:50	RINGINGS: 4	100:05:00:00:41
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267230	OAQ	940929	15:07:49	074434022	100:31:00:00:20
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267267	OAQ	940929	15:15:41	062567777	100:28:00:07:00
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267267	IA	940929	16:06:08	RINGINGS: 6	100:07:00:05:21
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267230	OAQ	940929	16:24:10	032877099	100:24:00:00:39
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267267	IA	940929	20:33:41	RINGINGS: 7	100:10:00:04:15
LOGIN	940930	00:50:15	OPER: AUTODUMP		
SET	940930	00:50:12	OPER: AUTODUMP		
TIME					

Would you please send

Telecom
AUSTRALIA

Dismissed 27/4

Group General Manager

Customer Affairs

37th Floor, 242 Exhibition Street

MELBOURNE VIC 3001

Ph: (03) 632 7700

Fax: (03) 632 3241

April 27, 1994

27/4/94

Mr. Robin Devoy
Chairman
AUSTEL
5 Queens Road
St Kilda
Melbourne, VIC 3005

BY FACSIMILE: (03) 820 3021

Dear Robin,

Attached for your information, an updated draft of the standard Verification Tests for use in Telecom's Public Switched Telephone Network.

The tests have been prepared in consultation with Mr Cliff Mathieson of AUSTEL and will form the basis for determining whether an individual telephone service is operating satisfactorily. I would appreciate your confirmation that the tests have met all the requirements of AUSTEL for service Verification Tests.

Once agreement has been reached on these Verification Tests, Telecom will be in a position to commence the testing of the services associated with COT customers, and ensure they meet the agreed requirements for a satisfactory service. As you would appreciate the completion of this testing is required under the recommendations of the recent AUSTEL report on COT customers.

Sincerely,

Steve Black

Steve Black

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world standards and are in fact superior to those used in other similar networks of equivalent digital penetration.

- Telecom Australia has all the tools, skills and procedures needed to detect and locate troubles reported by the CoT customers.
- The troubles found revealed some switching faults and potential for network congestion. The contribution made by these in degrading network performance was rated as insignificant.

(d) Telecom generally accepts the findings and recommendation of the report."

AUSTEL'S COMMENTS ON TELECOM'S RESPONSE

11.8 Prior to receiving Telecom's response to the Bell Canada International report as outlined in paragraph 11.6 above, AUSTEL had written to Telecom informing it that the claim in the Bell Canada International report to the effect that Telecom's customers received a grade of service that meets global standards goes too far because the study was an inter-exchange study only and did not extend to the customer access network - AUSTEL had agreed to the study being so limited on the basis that other monitoring it had requested Telecom to undertake on AUSTEL's behalf should provide AUSTEL with the data on the efficacy of the customer access network.

11.9 AUSTEL also noted that from the COT Cases' perspective there were limitations in Bell Canada International's first report, namely -

- test call patterns used by Bell Canada International may not be typical of the COT Cases - but that of itself does not necessarily invalidate the outcome
- it did not extend to testing of PBX (rotary) search facilities that are of significance to some COT Cases but, again, this does not invalidate the results of the tests as far as they went
- it did not include test calling via 008 numbers which is of relevance to some COT Cases but, yet again, this does not invalidate the results of the tests as far as they went."

(Letter dated 16 December 1993, AUSTEL to Telecom's Managing Director, Commercial Business)

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Hunt & Hunt

LAWYERS

FACSIMILE TRANSMISSION

Our Ref: GLH

Matter No:

Date: 19 April 1994
To: MR GOLDBERG
Fax No: 670 8389
From: CAROLINE FRIEND
Subject: TIO ARBITRATION

Partners
 Edward S Boyce
 James G.F. Harrowell
 Christine A. Gailey
 Gordon L. Hughes
 Mark T. Knapman
 Ian S. Craig
 Peter J. Ewin
 Wayne B. Cahill
 Neville G.H. Debnay
 Grant D. Sefton
 Charles Voorn
 Andrew Logie-Smith

Consultants
 Kenneth M. Martin
 Richard J. Kelloway

Associates
 Peter A. Cornish
 Shane G. Hind
 John S. Molnar
 Melissa A. Henderson
 Francis V. Celichio
 Roy Seik
 Randal P. Williams

Further to my telephone discussion with Mr. Graham Schorer of todays date, please find attached "Fast Track" Arbitration Procedure as of 31st March 1994 for your attention.

Yours faithfully,


 HUNT & HUNT

Att.

We are transmitting 20 (twenty) pages (including this cover sheet). If you have problems with this transmission call

This document and any following pages are confidential, may contain legally privileged information and are intended solely for the named addressee. If you receive this document in error please destroy it and please let us know.

melbourne

sydney

sydney west

brisbane

canberra

newcastle

represented in

adelaide

darwin

11234454 ACZB/CP

Level 21, 459 Collins Street, Melbourne 3000, Australia. Telephone: (61-3) 614 8711.

Facsimile: (61-3) 614 8730. G.P.O. Box 1533N, Melbourne 3001. DX 252, Melbourne.

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31/3/94

"FAST-TRACK" ARBITRATION PROCEDURE**Scope of the Procedure**

1. This Procedure ("the Procedure") provides arbitration pursuant to the Commercial Arbitration Act 1984 (Victoria), as amended, ("the Act") as a final and binding method of resolving the disputes listed in Schedule A ("the Disputes") between the customer named in Schedule B ("the Claimant") and Telstra Corporation Limited ("Telecom Australia").
2. The Claimant and Telecom Australia will be bound by the Arbitrator's decision, and the Claimant, by accepting the application of the Procedure to the Disputes, subject to the Appeal provisions of the Act, will be deemed to have waived all rights to commence proceedings in any court or other forum in respect of the facts giving rise to the Disputes or the Disputes themselves.
3. Arbitration under the Procedure will be administered independently by the Telecommunications Industry Ombudsman of 321 Exhibition Street, Melbourne ("the Administrator") and conducted by Dr Gordon Hughes C/- Hunt & Hunt, Solicitors, 21st floor, 459 Collins Street, Melbourne, 3000 ("the Arbitrator").
4. A request for arbitration under the Procedure in respect of the Disputes does not relieve the Claimant from any obligation the Claimant may have to pay Telecom Australia any other amounts which are due and are not part of the Disputes the subject of this arbitration.

Commencement of Arbitration

5. Each party shall complete and sign a Request for Arbitration form as set out in Schedule C in respect of the

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Disputes. The form must be completed and returned to the Administrator by a party within 7 days of receipt of the form from the Administrator. The Administrator shall notify the parties and the Arbitrator in writing when he has received completed and signed Request for Arbitration forms from both parties.

Arbitration Proceedings

6. Unless the Arbitrator otherwise specifies, the arbitration will be on documents and written submissions only. The Arbitrator may form the opinion that he requires one or more oral hearings in which event the Arbitrator will, after consulting with the parties, advise the parties of a date, time and venue for those hearings. Any oral hearing will not be open to the public nor any other non-parties to the arbitration apart from any of:-

- ° The Administrator;
- ° A representative or representatives of the Administrator;
- ° Special Counsel to the Administrator, Mr Peter Bartlett, C/- Minter Ellison Morris Fletcher, Solicitors, 40 Market Street, Melbourne ("the Special Counsel"); or
- ° A representative or representatives of the Special Counsel.
- ° With the leave of the Arbitrator, a member of the Resource Unit (as defined in Clause 8.1).
- ° With the leave of the Arbitrator, one or more professional consultants to a party. If such leave is granted, the other party may also have its professional consultants present.

In an oral hearing no cross examination of any witnesses is to be allowed. Legal representation of the parties shall be at the Arbitrator's discretion. If the Arbitrator allows one party to have legal representation then the other party may also have legal representation.

All written evidence shall be in the form of an affidavit or statutory declaration. All oral evidence shall be on oath or affirmation. Either party or the Arbitrator may request a transcript of any oral evidence or submission given at the hearing. A copy of the transcript shall be given to the parties, the Arbitrator and the Special Counsel. The cost of the provision of the transcript shall be part of the administrative costs of the Procedure.

A copy of all documents and correspondence forwarded by the Arbitrator to a party or by a party to the Arbitrator shall be forwarded to the Special Counsel. A copy of all documents and correspondence forwarded by a party to the Arbitrator shall be forwarded by the Arbitrator to the Special Counsel and the other party.

7. The Procedure will be as follows:-

7.1 The time limits for compliance referred to in this clause are subject to the overriding discretion of the Arbitrator and may be the subject of submissions by the parties.

7.2 The Claimant shall within 4 weeks of receipt of written notice from the Administrator pursuant to Clause 5 that he has received completed and signed Request for Arbitration forms send to Telecom and to the Arbitrator in duplicate, its Statement of Claim and any written evidence and submissions ("the Claim Documents") in support of that claim. The Statement of Claim shall, with sufficient particularity, state the following:

7.2.1 the identity of the Claimant;

7.2.2 the service difficulties problems and faults in the provision to the claimant of telecommunications service which are alleged to have occurred including the periods over which such service difficulties problems and faults allegedly occurred;

7.2.3 the loss allegedly suffered and particulars of how that loss is calculated.

7.3 Telecom Australia shall within 4 weeks of receipt by it of the Claim Documents send to the Claimant and the Arbitrator in duplicate its Statement of Defence, and any written evidence and submissions ("the Defence Documents") in support of that defence. The Statement of Defence shall, with sufficient particularity, state the following:

7.3.1 Telecom Australia's answers to the allegations referred to in the Statement Claim; and

*On
question
only*

7.3.2 any affirmative defence which Telecom Australia will seek to rely upon.

7.4 The Claimant may send to Telecom Australia and to the Arbitrator, within 4 weeks of receipt of the Defence Documents, a Reply to the Statement of Defence together with any supporting documents. Such Reply will be restricted to points arising in the Statement of Defence and the Defence Documents, and may not introduce any new matters, points, or claims.

7.5 Without limiting any rights the parties may have to obtain documents or evidence under the Act, either party may, upon reasonable notice in writing to the other party, apply to the Arbitrator for directions upon any matter in relation to the proceedings including an amendment to the Statement of Claim,

Defence or Reply, the production of further documents, further particulars of Statement of Claim, Statement of Defence or Reply. Each party is entitled to be heard on any such application. In giving directions, the Arbitrator, where appropriate, shall impose time limits for compliance with such directions. On any such application, the Arbitrator may not require the production of documents protected by legal professional privilege.

- 7.6 The Arbitrator may by notice in writing require either party to provide any further documentary information and/or particulars which he reasonably considers would assist him.
- 7.7 If the Claimant does not furnish the Claim Documents within the time allowed pursuant to sub-clause 7.2 or any further time allowed by the Arbitrator and does not remedy this default within 2 weeks after dispatch to the Claimant by the Arbitrator of written notice of that default, the Claimant may, at the Arbitrator's discretion, be treated as having abandoned the Claimant's claim under the Procedure, and the arbitration will not proceed.
- 7.8 If Telecom Australia does not furnish the Defence Documents within the time allowed pursuant to sub-clause 7.3 or any further time allowed by the Arbitrator and does not remedy this default within 2 weeks after dispatch to Telecom Australia by the Arbitrator of written notice of that default, then subject to any directions the Arbitrator may give and subject to Section 17 of the Act, the dispute may be decided by the Arbitrator by reference to the Claim Documents only.
- 8.1 The Arbitrator may, as he sees fit, use as a resource unit the services of personnel employed by Ferrier Hodgson, Chartered Accountants, 459 Collins Street,

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Melbourne and DMR Group Australia Pty. Ltd. of 1 Southbank Boulevard, South Melbourne ("the Resource Unit").

- 8.2 The Arbitrator may require the Resource Unit to examine documents, inspect premises or systems or carry out such other enquiries or research as he directs. Such requirement shall be in writing and a copy of it shall be sent to the parties at the same time as it is sent to the Resource Unit. A report of any such activities shall be made available to the parties who shall be entitled to make a written submission upon such report on such terms as the Arbitrator thinks fit.
- 8.3 The Arbitrator shall disclose to the parties in writing all advice received from the Resource Unit. The parties shall be entitled to make a written submission in relation to such advice on such terms as the Arbitrator thinks fit.
- 8.4 The fees and expenses of the Resource Unit shall be part of the administrative costs of the Procedure.
- 8.5 Prior to undertaking any work or receiving any documentation or information relating to the arbitration each individual who is part of or engaged by the Resource Unit shall sign a form of confidentiality undertaking as in Schedule E and shall send that signed confidentiality undertaking to the Administrator.
9. The Arbitrator may, as he thinks fit, combine parts of this Procedure with parts of the identical procedure being used in respect of claims by those whose names appear in Schedule D including the hearing of oral evidence concurrently.

The Award

10. The Arbitrator shall make his award having regard to the questions of Telecom Australia's liability and questions of loss as set out in this clause. The parties agree that in respect of some period or periods of the time covered by the Claimant's claims Telecom may not be strictly liable or have any obligation to make any payment to the Claimant.

10.1 In relation to Telecom's liability; if any to compensate for any demonstrated loss on the part of the Claimant the Arbitrator will:

10.1.1 give effect to any contractual or statutory limitations on Telecom Australia's legal liability, and any limitations on Telecom Australia's liability to the Customer as determined by Austel pursuant to section 121 of the Telecommunications Act 1991 which limitations may apply in respect of some period or periods of time covered by the Claimant's claims and for that reason in making the findings the Arbitrator will:

10.1.1.1 determine for the time covered by the claim, the period or periods for which Telecom Australia is not strictly liable or has no obligation to pay and the period or periods for which Telecom Australia is liable and has an obligation to pay;

10.1.1.2 determine in respect of each such period the amount of loss, if any, incurred by the Claimant;

10.1.1.3 recommend whether, notwithstanding that in respect of a period or periods that Telecom Australia is

not strictly liable or has no obligation to pay, due to a statutory immunity covering that period or periods, Telecom Australia should, having regard to all the circumstances relevant to the Claimant's claim, pay an amount in respect of such a period or periods and, if so, what amount.

10.1.2 set off against any amounts found by the Arbitrator to be otherwise owing by Telecom Australia to the Claimants any amounts paid to, rebates granted to, or services carried out for the Claimant by Telecom Australia to date.

10.2 In relation to the Claimant's loss, the Arbitrator:

10.2.1 will take into account the Claim and Defence Documents, any Reply and supporting documents, written evidence and submissions made by the parties and, if applicable, any sworn or affirmed oral evidence presented to the Arbitrator by the parties to the arbitration together with any information obtained by the Resource Unit or any advice given to him by the Resource Unit.

10.2.2 will make a finding on reasonable grounds as to the causal link between the alleged service difficulties, problems and faults in the provision to the Claimant of telecommunication services and the losses claimed and, as appropriate, may make reasonable inferences based upon such evidence as is presented by the parties together with any information obtained by

the Resource Unit or any advice given to him by the Resource Unit. Unless the Arbitrator is able to conclude that Telecom caused the loss claimed, there will exist no basis for a claim against Telecom.

- g/c
11. The Arbitrator's reasons will be set out in full in writing and referred to in the Arbitrator's award.
 12. If Telecom Australia appeals against the Arbitrator's award pursuant to Section 38 of the Act, Telecom Australia will provide funds from time to time to meet all reasonable legal costs incurred by the Claimant in relation to the appeal and the application for leave to appeal, which costs are to be assessed on a party/party basis (plus 10% of the party/party costs as assessed). Should any dispute arise between the Claimant and Telecom as to the timing of such funding, such dispute shall be determined by the Administrator who shall make his determination after hearing representations from the parties. Neither party shall seek an orders for costs in such appeal proceedings.
 13. Telecom commits in advance to implementing any recommendation made by the arbitrator pursuant to sub-clause 10.1.1.3.
 14. Subject to clause 17 and unless directed otherwise in the Arbitrator's award or the parties otherwise agree or a Court otherwise orders, within three weeks of dispatch to the parties of the Arbitrator's award, payment shall be made by Telecom of any monies directed by the award to be paid. Such payment shall be made directly to the Claimant or in such manner as the Claimant directs, and not through the Administrator. If the Arbitrator determines in respect of a Claimant's claim an amount less than that paid under an earlier settlement, Telecom agrees that the difference will not be recoverable.

15. The Arbitrator and Administrator shall conduct and progress the arbitration as quickly as justice to all the parties reasonably permits.

Confidentiality

16. For the purposes of this arbitration procedure, "Confidential Information" means information relevant to the arbitration, including the Claim and Defence Documents and any other documents provided in, or oral evidence given in, the arbitration by either party other than:
- 16.1 information which at the time of disclosure to a party to arbitration is in the public domain.
 - 16.2 information which, after disclosure to a party to the arbitration, becomes part of the public domain otherwise than as a result of the wrongful act of the party to whom the information was disclosed.
 - 16.3 information which was received from a third party, provided that it was not acquired directly or indirectly by that third party from a party to the arbitration.
17. This clause is to be read subject to any requirements of law or of any Court application relating to the Procedure. Upon making his award, the Arbitrator shall immediately forward two copies of it to the Administrator and the Administrator shall thereupon send a copy to each party. The Arbitrator's award, the subject matter of the arbitration proceedings, the conduct of the procedure and the Confidential Information shall at all times be kept strictly confidential by the Administrator, the Arbitrator and all of the parties to the arbitration. Telecom Australia has submitted to the arbitration in consideration of the subject matter and the conduct of the arbitration Procedure, the Confidential Information and the Arbitrator's award being kept strictly confidential by the Claimant. If there is any disclosure of any part of the

subject matter or the conduct of the Procedure, the Confidential Information or the Arbitrator's award by either party, then the Arbitrator may take such steps as he thinks appropriate including the dismissal of the claim in the event of a disclosure by the claimant.

18. Notwithstanding clause 17 a party may disclose Confidential Information to any of the other Claimants whose names appear in Schedule D or to the party's legal or other consultants provided that the party ensures that every such individual Claimant and consultant signs a confidentiality undertaking in the form set out in Schedule E and sends that confidentiality undertaking to the Administrator prior to receiving any Confidential Information.
19. Clause 17 does not limit the right of any party to seek injunctive relief or make a claim for any damages suffered as a result of any disclosure.

Costs

20. The Arbitrator's fees and expenses shall be paid by the Administrator and are part of the administrative costs of the Procedure.
21. The administrative costs of the Procedure are subject to a separate agreement between the Administrator and Telecom Australia.
22. Subject to clause 21, each party shall bear its own costs of the arbitration.

Notices

23. All documents letters or notices to be sent to Telecom Australia in relation to this Procedure shall be sent to:

Mr Paul Rumble
National Manager-Customer Response Unit
Telecom Australia
Level 8
242 Exhibition Street
Melbourne Victoria 3000

by being delivered by hand or sent by prepaid mail.

Liability of Administrator and Arbitrator

24. Neither the Administrator nor the Arbitrator shall be liable to any party for any act or omission in connection with any arbitration conducted under these Rules save that the Arbitrator (but not the Administrator) shall be liable for any conscious or deliberate wrongdoing on the Arbitrator's own part.
25. The liability of Ferrier Hodgson and the partners and employees of Ferrier Hodgson for any act or omission in connection with any arbitration conducted under these rules (other than in relation to a breach of their confidentiality obligations) shall be limited to \$250,000 jointly.
26. The liability of DMR Group Australia Pty Ltd and the directors and employees of DMR Group Australia Pty Ltd for any act or omission in connection with any arbitration conducted under these rules (other than in relation to a breach of their confidentiality obligations) shall be limited to \$250,000 jointly.

Return of Documents after Arbitration

27. Within 6 weeks of publication of the Arbitrator's award, all documents received under this Procedure by the parties the Administrator, the Resource Unit and/or the Arbitrator and all copies thereof, shall be returned to the party who lodged such documents.

Conflict of Rules

28. In the event of any inconsistency between these rules and the provisions of the Act, these rules shall prevail to the extent of that inconsistency.

Schedule A

("the Disputes")

* For Claimants (plus other related claimants, companies, etc) other than Graham Schorer:

1. The liability of Telecom Australia to the Claimant in respect of alleged service difficulties, problems and faults in the provision to the Claimant of telecommunication services;
2. The adequacy of the amounts paid by Telecom to the Claimant under earlier settlements in relation to alleged service difficulties, problems and faults in the provision to the Claimant of telecommunication services;
3. The liability of Telecom Australia to the Claimant in respect of alleged service difficulties, problems and faults in the provision to the Claimant of telecommunication services since the date of the settlement payment for the respective Claimant's earlier claims, up to the date of the Arbitrator's decision;
4. If Telecom Australia is found liable in accordance with 1 or 3 above, the quantum of compensation payable by Telecom Australia to the Claimant for the Claimant's proven loss.

O R

* For Graham Schorer (plus other related claimants, companies, etc):

- No.*
1. The liability of Telecom to the Claimant in respect of alleged service difficulties, problems and faults in the provision to the Claimant of telecommunication services (other than the matters covered by the earlier settlement between Graham Schorer's company and Telecom);
 2. If Telecom Australia is found liable in accordance with 1 above, the quantum of compensation payable by Telecom Australia to the Claimant for the Claimant's proven loss (other than in relation to the matters covered by the earlier settlement between Graham Schorer's company and Telecom).

* **DELETE AS NECESSARY**

Schedule B

("the Claimant")

Name

Address

**(Plus other related claimants,
companies, etc)**

Schedule C**Request for Arbitration**

XY (name of Claimant) of and (here insert name of related claimants, companies etc and their addresses) hereby agree to the Procedure annexed for the resolution of the Disputes between them and Telstra Corporation Limited in the manner described in the Procedure.

Dated this day of 1994.

.....

.....

.....

Telstra Corporation Limited hereby agrees to the Procedure annexed for the resolution of the Disputes between it and (insert name of Claimant and related claimants, companies etc) in the manner described in the Procedure.

Dated this day of 1994.

.....

Schedule D

(Here insert names of other three claimants)

Schedule E

Confidentiality Undertaking

To: The Administrator - Fast Track Arbitration Procedure
Telecommunications Industry Ombudsman
Ground Floor, 321 Exhibition Street
Melbourne VIC 3000

I, _____ (print full name)

of _____ (print address)

acknowledge that I may receive or become aware of confidential information relating to the "Fast Track" arbitration procedure (defined in clause 16 of the Fast Track Arbitration Procedure as the "Confidential Information") and therefore I hereby undertake and acknowledge to each of the Administrator, the Arbitrator, the Claimant and Telecom Australia (as defined in clauses 1 and 3 of the Fast Track Arbitration Procedure) at all times that:

1. I shall not divulge any Confidential Information to, or permit it (whether by act or omission) to come into the hands of or be or become available to, any person or persons other than in accordance with clause 2 hereof.
2. I shall not use any Confidential Information for any purpose other than as I am directed to use it by the Arbitrator, the Claimant, or Telecom Australia as the case may be, in the course of providing services to that party.
3. I shall take all reasonable steps as I may be advised to take by the Administrator and/or the Arbitrator, to cause and ensure that any Confidential Information is kept in the strictest confidence.
4. I shall return all documents containing Confidential Information which I receive, and all copies thereof, to the party who provided me with such documents, within 6 weeks of publication of the Arbitrator's award.
5. These undertakings shall have full force and effect and shall operate at all times hereafter notwithstanding that I may subsequently cease to provide services to the Arbitrator, the Claimant, or Telecom Australia as the case may be.

Dated the _____ day of _____ 1994.

Signed by the person whose)
name and address are inserted)
above, in the presence of:) _____
Signature

Signature of Witness

Full name of Witness

chronological manner; ie, we have a call on the 5th May, 1993 at 9:18, with a conversation time of 1:28 secs, yet within this time frame there is a further call at 1:28 for 9 secs. Of course this cannot happen. Or can it?

Document B3 (008 account) shows a call on the 13th January, 1995 at 11:50 as a 9:49 sec call and just 7 minutes later a further call for 42 secs. Something is amiss here I believe.

Document B4 shows a similar episode (or does it?). When looking closely at B4, we see that a conclusion can be drawn in fact, that this array of numbers called by me has been produced from a "Bank" of numbers called over a period.

My concern now is, if this is the case, then data produced in this manner has had human intervention - there is no other solution that can be determined. My continued concern right through my Arbitration Procedure is that Telecom have not provided "all" the Raw CCAS data, ELMI tapes, where "no" human intervention had taken place.

Mr Benjamin, the fact that data is reproduced in this manner leaves doubt in relation to many areas of monitoring of my calls, both incoming and outgoing, which has not corresponded with notes made by me of the said calls.

C.O.T. members did not receive the Raw Data produced from the findings of the Austel Monitoring, they only received the reproduced CCAS data in print form, even after I had written letters to Paul Rumble and yourself. If Telecom states that the CCAS Raw Data is correct as presented here in this letter, then I point out that, when counting the incoming calls on the 008 accounts:

account B1 shows 39 calls,

there are 9 incorrect calls on this account,

this is close to 25% of calls being incorrectly charged.

account B2 shows 17 incoming calls,

there are 4 calls incorrectly charged,

which again is close to 25% being incorrectly charged.

These three 008 accounts, B1, B2 and B3, are examples only of where incorrect charging has not corresponded with Raw CCAS data.

This query is not part of the Arbitration Procedure, however it is a concern that the anomalies listed here have been questioned right through my complaint.

Would Telecom please inform me, priority 1, which is wrong: the 008 account presented here, or the CCAS Data?

I await your response.

Sincerely,

Alan Smith

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The General Manager
Corporate Resources
FOI Co-Ordinator
AUSTEL
Australian Telecommunications Authority
5 Queens Road
MELBOURNE VIC 3004

By Facsimile - (03) 820 3021
By Courier - 9 February 1995

Attention: Ms Lesley Gordon

Date of Application: 9 February 1995

Freedom of Information Application

Graham Schorer, Associated Entities and Companies etc.

Dear Sir/Madam,

We would be pleased if you would accept this correspondence as a formal application for Freedom of Information under the Freedom of Information Act 1982. Our firm has been appointed by Graham Schorer and Associated Entities, 493-495 Queensberry Street, North Melbourne, Victoria, 3051, to assist in the accumulation of information surrounding circumstances of the telecommunications services provided by Telecom to our clients premises situated at 493-495 Queensberry Street, North Melbourne in the State of Victoria.

Our application in this instance is made under the provisions of Section 15, Subsection 2 of the Freedom of Information Act, 1982. We would respectively submit that our right of access for that information would be found under provisions of Section 11 (1) of that Act.

We would be pleased if you would give consideration to our application and make available certain documents for inspection or purchase pursuant to Section 11 (1) of the Freedom of Information Act 1982.

You would note that our application in this case has been dated 9 day of February 1995. We anticipate that the application will be received by yourselves no later than 10 February 1995 (an allowance of 1 day delivery). You will be familiar with the provision of Section 15 (5) (a) (b) of the Freedom of Information Act 1982 and we will look forward to being notified that such request has been received by 10 February 1995 and of your decisions with respect to our request by no later than the 10 March 1995. We would ask that such information be forwarded to us by facsimile correspondence to the number (03) 287 7001.

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If you deem it is appropriate to extend this period as referred to in the Freedom of Information Act of 1982 (as referred to in paragraph (6) (a) (b) of the Act), then we would look forward to your determination in writing as soon as practicable.

This particular application acknowledges the provisions of Section 20 (1) regarding forms of access and asks you to give favourable access to documents in accordance with the provisions of all four subsections of Section 20 (1).

This applications relates both specifically and generally to documents including written correspondence, report form, computer data, raw data, diary notes, notations, scribble pads, telephone conversations either written or electronically recorded and any other form whatsoever with respect to the following:-

1. The telephone service provided to the situation of:-

**Golden
Golden Messenger
Golden Messengers PL
Golden Messengers Pty Ltd**

2. The situation of:-

493-495 Queensberry Street, North Melbourne, Vic, 3051

With the postal address of:-

**PO Box 313
North Melbourne, Vic, 3051**

3. The telephone numbers for the above situation described in 1 and 2 of this application including:-

- (i) Rotary groups off of the following PSTN subscription:

(03) 329 0055	(03) 329 0088
(03) 329 7788	(03) 329 7355
(03) 329 7133	(03) 329 7255
(03) 329 7466	(03) 328 4462

- (ii) Rotary groups off of the following ISDN subscription:

(03) 286 00xx	(03) 286 02xx
(03) 287 70xx	(03) 287 07xx

4. The scope of this application is for the period 1 January 1992 through until 9 February 1995 and specifically applies for:-
- (i) Access to documents supplied to Austel during the course of the Austel investigation into the C.o.T. Cases.
 - (ii) A copy of all draft C.o.T. reports prior to the release of the actual Austel C.o.T. report in April 1994.
 - (iii) All documents between Austel and Telecom in respect to telephone service difficulties, problems and faults associated with the C.o.T. Cases including allegations made to Austel against Telecom.
 - (iv) All documents to Telecom from Austel concerning the attempts by Austel to obtain documentation from Telecom relating to the Austel investigation of the C.o.T. matters.
 - (v) All documents to Austel from Telecom concerning the attempts by Austel to obtain documentation from Telecom relating to the Austel investigation of the C.o.T. matters.
 - (vi) All documents between Telecom and Austel in respect to addressing Telecom's failure to comply with Freedom of Information rights of the C.o.T. Cases within the understanding of the Fast Track Settlement Proposal.
 - (vii) All documents, diary notes and other notations including the official records of the minutes of meetings between Telecom and Austel regarding C.o.T. matters and Austel's directives given to Telecom concerning such C.o.T. matters.
 - (viii) Documents by members of Austel's staff in respect to conversations including telephonic, official meetings and unofficial conversations with Telecom personnel regarding Austel's investigation of the C.o.T. matters.
 - (ix) Documents of minutes of any meetings, notations and recordings of any conversations with Telecom personnel by Austel staff at the time and after the presentation of the Austel draft C.o.T. report in April 1994.
 - (x) Documents produced prior to, during and as a result of the meetings between Telecom and Austel once it had become known that Telecom had been engaged in voice monitoring and/or voice recording of telephone conversations in respect to the C.o.T. issue/cases.
 - (xi) Documents made during Austel Board meetings and recommendations regarding:-
 - (a) C.o.T. matters;
 - (b) Telecom and C.o.T. matters.
 - (xii) All documents concerning legal advice, sought, supplied or given to Austel as regulator to clarify what role, action or stance Austel could take to deal with the following outstanding matters:-

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- (a) Listening to and taping of telephone conversations;
 - (b) The misleading and deceptive conduct by Telecom;
 - (c) The unconscionable conduct of Telecom in relation to the C.o.T. Cases.
- (xiii) All documents between Austel and senior management of Telecom in regard to any issue pertaining to the C.o.T. investigation prior to, during and after the C.o.T. report release in April 1994.
 - (xiv) All documents between Austel and the Telecom Board (includes the Board of Telstra) in regard to any issue pertaining to the C.o.T. investigation prior to, during and after the C.o.T. report release in April 1994.
 - (xv) All documents between Austel and the Arbitrator appointed in regard to any issue pertaining to the C.o.T. investigation at the time of appointment and any time since.
 - (xvi) All documents between Austel, C.o.T. members and Telecom in relation to the formulation, drafting, meeting regarding acceptance and implementation of the Fast Track Settlement Proposal and the Fast Track Arbitration Procedure as it pertains to the C.o.T. Cases.
 - (xvii) All documents between Austel and the Minister for Communications in relation to the C.o.T. Cases.
 - (xviii) All documents of media releases by Austel including drafts and final releases in respect to C.o.T. Cases and Telecom.
 - (xix) All documents in regard to media releases between Austel and Telecom including details of any agreements between Austel and Telecom in respect to the early provision for Telecom's inspection and/or approval of media releases by Austel.
 - (xx) All documents received by Austel from Telecom regarding the supply of telephone service to the business situations and telephone numbers of Golden Messenger including:-
 - (a) Faults;
 - (b) Exchanges including all exchanges directly connected to the North Melbourne exchange;
 - (c) Lines;
 - (d) Customer Access Network (CAN);
 - (e) Testing;
 - (f) Special testing;
 - (g) National Network Investigations;
 - (h) Network Investigation Services;

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- (i) Monitoring;
 - (j) Special monitoring;
 - (k) Customer premises equipment.
 - (l) Austel's directives to Telecom in respect to the C.o.T. matters.
 - (xxi) All documents between Austel and Telecom in any format whatsoever regarding Telecom behaviour and conduct in respect to the C.o.T. issues.
 - (xxii) Documents of internal correspondence including diary notes, Email and other types of notations within Austel, the Board of Austel and staff members in relation to the C.o.T. issues.
5. The application fee of \$30.00 is attached hereto, if any further costs are involved, please advise this office immediately through the current facsimile number of (03) 287 7001.
6. Due to our client's financial hardship and that the information being sought in this application is of public interest, our client requests that this application be processed and the documents be produced free of charge.

Yours faithfully,

G Ellacott
Plummer & Pullinger

encs Letter Notifying Appointment.

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AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

95/0569

10 April 1995

G Ellacott
Freemans Plummer and Pullinger
C/O Golden Messenger Pty Ltd
NORTH MELBOURNE VIC 3051

Dear Mr Ellacott

FOI REQUEST DATED 9 FEBRUARY: MR G SCHORER

I refer to my letter of 8 March 1995, our subsequent telephone discussions, and my facsimile messages over recent weeks.

As foreshadowed in my fax of 31 March 1995, AUSTEL has been mindful of its obligations under the FOI Act and has progressed its initial considerations to reach a decision regarding this FOI request.

I am now writing to advise that AUSTEL intends to refuse to grant access to the documents requested, being satisfied that the work involved in processing the request would substantially and unreasonably divert the resources of AUSTEL from its other operations (see Section 24 FOI Act).

Before implementing that refusal, and in accordance with Section 24 (6) (c) of the FOI Act, I am advising you of AUSTEL's intention to refuse access so that you or Mr Schorer are given an opportunity to make the request in a form that AUSTEL would be able to process.

I am the officer to be contacted in the event that you or Mr Schorer wish to consult with a view to making the request in the form that would remove the ground for refusal. (You may recall that my direct phone no. is (03) 828 7361).

In order to provide time for your considerations and reasonable opportunity for any consultation on this matter, I request that you advise me by 24 April 1995 whether you intend to amend your request, and I can then assist you in that regard. In the interim and as far as is reasonably practical, I am available to provide any information that would assist in revising the request to remove the ground for refusal.

Yours sincerely

Lesley Gordon
General Manager Corporate Resources
FOI Coordinator

5 QUIRNS ROAD, MELBOURNE, VICTORIA
POSTAL: P.O. BOX 7443, ST KILDA RD, MELBOURNE, VICTORIA, 3004
TELEPHONE: (03) 828 7300 FACSIMILE: (03) 820 3021

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AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

95/0569

18 April 1995

Mr Graham Schorer
Golden Messenger Pty Ltd
493-495 Queensbury Street
NORTH MELBOURNE VIC 3091

Dear Mr Schorer

FOI APPLICATION: 9 FEBRUARY 1995

I refer to my letter of 10 April 1995, and our telephone conversation of the morning of 13 April 1995 during which I explained the background to AUSTEL's current position on your application under the FOI Act.

As discussed, factors in our considerations have included the size (approximately 45000 documents for examination) and complexity of the application as it currently stands. I noted that you were surprised at the extent of material potentially covered by your request, and I concluded that you found it useful to have an opportunity to informally address the general background and that aspect in particular.

In exploring options which you may care to consider with a view to reducing the scope of your request, I was able to advise that amongst the vast amount of material AUSTEL has gathered over recent years regarding the COT Cases, there are five files which clearly relate specifically to you and your company/companies. I suggested that these files could be readily accessed and reviewed relatively quickly, and that while there would be a considerable workload for AUSTEL, the task would be straightforward, facilitating the provision (where appropriate) of documents to you over a 4-5 week period. It appeared that you were favourably disposed to this proposal, and wished to give it serious consideration.

As indicated, if you subsequently chose to reduce your application of 9 February 1995 to the documents contained in these five files, I believe this would remove the ground for refusal under Section 24 of the FOI Act as referred to in my letter of 10 April.

In addition to discussions as referred to above, you made particular reference to reports undertaken for Telecom by Bell Canada, and your strong wish to gain access to these reports or material directly related thereto. If you are able to provide specific formal advice in this regard, it may be that inclusion of those requirements in a reduced request could also be accommodated by AUSTEL. I am happy to discuss this aspect further once you have examined your needs.

In order to resolve the general matter of the ambit of your request of 9 February, I would appreciate it if you could respond to this letter by c.o.b. 24 April 1995.

Finally, consistent with your advice last week and as confirmed by me, I will continue to provide copies on any correspondence on this FOI request to both you and Mr Gary Ellacott at Freemans Plummer and Pullinger.

Yours sincerely



Lesley Gordon
General Manager Corporate Resources
FOI Coordinator

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AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

95/0569

11 May 1995

Graham Schorer
Golden Messenger Pty Ltd
FAX : 287 7001

Dear Graham,

FOI APPLICATION: 9 FEBRUARY 1995

Thank you for your letter of 28 April 1995.

Although we have had some 'phone discussions since that time, and because your letter raised some important issues, I am replying in writing before reaching any final decisions regarding your application.

You know that I appreciate your general comments in relation to the COT Cases, and that AUSTEL is well aware of the concerns you have regarding everything that has happened. However in spite of this, and regrettably, AUSTEL has concluded that the response to your current FOI request must be based on the size and complexity of the task and its impact on AUSTEL's operations.

In regard to some of the specifics of your letter, it might be useful to consider the question of whether undertakings were given regarding the processing of any FOI applications.

AUSTEL supports the principles behind the FOI Act, and understands the need to provide information to members of the public as far as possible. AUSTEL was aware in 1993 (as you have stated in your letter) that the COT members may well wish to lodge FOI requests with AUSTEL. Against that background I have considered seriously your claims of undertakings by AUSTEL, but based on my investigations I believe that no such undertakings were given.

I am of the view that any comments made to you recognised the probability of FOI applications to AUSTEL, and noted that any FOI request would be treated on its merits and in accordance with the spirit of the Act. AUSTEL was, of course, aware of criticisms of Telecom's dealings with COT FOI applications and indeed reflected concern to that effect in the COT Case Report. These comments, however, did not indicate a promise that any future FOI application to AUSTEL by a COT member would be accepted and processed, regardless of its size and complexity.

5 QUEENS ROAD, MELBOURNE, VICTORIA
POSTAL: P.O. BOX 7443, ST KILDA RD, MELBOURNE, VICTORIA, 3004
TELEPHONE: (03) 828-7300 FACSIMILE: (03) 820-3021
98287300 98203021

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As no undertakings have been given to the contrary, AUSTEL still intends to refuse your request unless the scope of your application can be appropriately reduced. The problem is not so much that AUSTEL does not have an FOI department. It is rather that the size of your application (even if reduced to the categories listed and the additional material described in page 3 in your letter) would require the full time attention of several officers at various levels over many weeks, and could necessitate AUSTEL recruiting appropriately skilled staff and/or taking others away from their normal duties. Already the resources of AUSTEL have been supplemented and stretched, with outside assistance sought from a range of agencies and up to four staff, even in these initial stages.

I am still willing to discuss the matter, however, and in any event am prepared to give you some material which has been identified in the preliminary stages of my considerations. In the course of working out the scope of your application, we have sorted but not fully assessed documents in category L - the files specific to you. This sorting procedure has identified documents the provision of which would be unlikely to pose any difficulties under the FOI Act. I offer this material to you outside of the FOI process (having undertaken the work it seems more practical for you to have these documents than for me to retain them), although I realise it may be of limited assistance.

With regard to your current formal application, I believe it would be reasonable to seek to finalise AUSTEL's position in the next few days. On that basis, I request that any advice with regard to reducing the scope of your request be provided to me by 9 a.m. on Monday 15 May 1995. In the meantime, if you require clarification of any of the matters contained in this letter, or if further discussion will assist, please contact me on ph. no. 9828 7381.

Yours sincerely



Lesley Gordon
General Manager
Corporate Resources
FOI Coordinator

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Hundreds punished for theft, snooping, rudeness

Bad bureaucrats

HUNDREDS of federal public servants were sacked, demoted or fined in the past year for serious misconduct.

Investigations into more than 1600 bureaucrats uncovered bad behaviour such as theft, identity fraud, prying into private files, leaking secrets and being rude to clients.

The most common breach was improper use of taxpayer-funded internet and email.

But investigators uncover-

Fine fustions

ered a wide array of offences, including two officials on overseas duty sanctioned for not behaving in a way that would uphold the good reputation of Australia.

Almost 80 public servants were sacked in 2007-08 for breaching their code of conduct, while 182 resigned while under investigation.

Fines were handed to 318 public servants, 111 were

counselled, 83 took a pay cut, and 26 were shifted sideways.

About 50 were found to have made improper use of trade information or their power and authority for the benefit of themselves, family or friends.

Some of the offences were committed at social functions outside working hours.

Theft allegations were levelled against 16 officials, while 26 were accused of leaking information.

Details of the investigations

and sanctions are contained in the latest State of the Service report by the Australian Public Service Commission.

"The public has much higher expectations than ever before about what the Government and the public service can deliver," the report said.

"The Australian Public Service must adapt and reform to keep in step with these developments."

The Department of Agriculture, Fisheries and Forestry and the Department of Innova-

tion reported the most investigations per 1000 staff.

Centrelink and the Department of Defence were among those to take the hardest line on breaches.

About 40 of the sanctioned staff sought reviews by the Merit Protection Commissioner with many still to be heard or decided.

The report also noted a significant increase in the number of public servants who reported feeling harassed or bullied at work.

Two unnamed agencies were blamed for the surge in bullying reports, from 15 to 19 per cent of all Australian Public Service staff.

A much higher percentage of women than men believed they had suffered at the hands of others, with superiors largely blamed.

"It is of great concern that some agencies appear to have a culture in which managers who bully may be tolerated," the report said.

Grocery watch returns

Steve Lewis

national political correspondent

SHOPPERS will be able to compare prices at up to 4000 supermarkets under plans to revive the Rudd Government's troubled grocery watch scheme.

In a big win for consumers, the price of everyday grocery items such as cereals, bread and fruit will be individually priced.

Weekly specials will also be posted under plans to build pricing pressure in the \$60 billion grocery sector.

Consumer organisation



EXICOM TELEPHONES.

With the onset of the "wet" season in Northern Australia it has become apparent that we are having a significantly higher fault rate with T 200 telephones that would have been normally expected. The problem was first apparent in Darwin but it has been closely followed by Cairns and Townsville. Over the past weeks the problem has reached Southern Queensland.

The most common fault is line looping which can either be permanent or intermittent. A related problem is that the phone loops the line after a single burst of ring. The called party has not answered but the phone is off the hook and sometimes the calling party can hear all activity at the called end. In this case the call would also appear on the billing record as a short duration call. Breakthrough Billing have been informed of this possibility.

Tests were carried out by TRL and the problem isolated to the Exicom flexible keypad circuit layers which were manufactured after week 7 of 1993. Exicom are the sole supplier of Serial 550/141 "tropisolated" telephones which are treated with conformal coating and these phones are deployed in areas of high humidity. High humidity is the specific condition most likely to bring about the fault. Therefore in areas of high humidity we have a potential major fault problem.

DEPLOYMENT.

Whilst I do not have the total deployment of Exicom phones available it has been assessed that there is approximately 450,000 phones with potential faults. Of these there are 325,000 Serial 550/141 phones deployed in areas of high moisture. Approximate deployment of the Serial 550/141 phones since April 1993 is:

Queensland	225000
Darwin	9000
Western Australia	90000

In these areas virtually all T200's installed or used as replacements during maintenance have a potential problem. In addition there are some 125000 in other areas.

IMPACT.**Darwin.**

The problems in Darwin have been addressed. Since December no more Exicom phones have been used. All supplies have been sourced from Alcatel and whilst these do not have the conformal coating tests indicate that they are performing satisfactorily. Whilst there are still phones in-situ with potential defects the situation is considered manageable.

Queensland.

The Queensland situation is very serious. The situation has progressively worsened as the wet has moved south. It has significantly worsened over the past two weeks as cyclone Rewa has moved off the Queensland Coast and brought with it very heavy storm activity and high moisture conditions. The effect in Queensland is that in January we are experiencing the need to replace phones at the rate of 12000 a month compared to the expected 6500. Under the present Union agreements each of these replacements require a visit by field staff.

In Queensland we have taken the following actions:

1. Following the success of the trial of the Alcatel phone in Darwin, supplies of Exicom phones to Queensland have ceased and all further phones used will be sourced from Alcatel. Because of the supply problems Exicom phones will still have to be deployed in areas of lower moisture risk.
2. We still have a heavy backlog of work due to the impact of Cyclone Rewa. Staff have been recalled on duty and over the weekend we have loaned all available staff from C & G. Pay phones, CED to work with the SDU to replace telephones. Whilst this may overcome the present problem it does not offer a sustainable long term solution.

D01026

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3. We have set up discussions with the CWU with the view of implementing any of the following:

Use of Fixed Term employees for three months

Use of Couriers to deliver phones where the fault is diagnosed as being in the phone.

Use of contract labour.

All these actions are costly in terms of SDU expenses. The recently completed Mercer Study estimates that the cost of a visit is \$237. No allowance has been made for this activity in the SDU budget.

With the Bailot due in March we must address the problem as aggressively as possible. Consideration should also be given to seeking compensation from TT or Endcom.

Western Australia.

The heavy population areas in WA are in the South and traditionally the weather is not expected to effect these areas until February or March. We are arranging for Alcatel phones to be supplied to northern areas.

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\$76,785 000

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SMITHDOC

: - DOES NOT EXIST
:CUS - CUSTOMER

SOLUTION = 10/05/94 CSR: ZV333FIELD EMPLOYEE: E767 TONY WATSON
IN HAND TONY WATSON
10/05/94 I reported this incident in LEOPARD on 055217777
and notified Chris Doody. We were able to duplicate the
incident during testing; 217777 was diverted to 236101 with
easycall and when 236101 was busy, a call to 217777 would
return one burst of ring then busy.
11/05/94 Chris Doody called me this morning and said the
incident is caused by AXE104 system limitation, that is the
incident is normal and the customer is aware of that.
11/05/94 09:25, Mr Alan Smith was notified of the result.
Tony Watson.....

SOLUTION = 11/05/94 10:33 ZV333
Chris Doody is sending a report on the incident.
Tony Watson.....

DATE START END SYMPT CAUSE ACT'N EMP
10/05/94 13.47 13.48 NY NJ YT E767
***** NO PART DETAIL *****

ORDER = S6701981 STATUS = CL
CUSTOMER = 259289 TELEPHONE = 055 267267
CAPE BRIDGEMATER HOL. CAMP ALAN SMITH
BLOWHOLE RD VIC 3306
CAPE BOWTR

CALL IN = 04/05/94 14.03
CLOSED = 04/05/94 14.04
DESCRIPTION = 27/04/94 13:30 Visit to Alan Smith's house.....
NARRATIVE = 4/05/94 13:48 ZV333
27/04/94 13:30 Appointment for Ross Anderson to visit Alan
Smith to investigate the report of 267230 possibly holding
up, after the phone was hung up.
:BNU - BUSY NOT IN USE
: - DOES NOT EXIST
:CUS - CUSTOMER

SOLUTION = 4/05/94 CSR: ZV333FIELD EMPLOYEE: E767 TONY WATSON
This fault report was initiated by Peter Gamble. Peter was
doing some testing with Alan Smith and apparently they were
able to hang up Smith's phone and while Peter was still
listening at his phone he could hear Mr Smith talking in his
office. In fact Mr Smith counted to 10 then picked up his
phone again and Peter had been able to hear the count to 10.
On the 27/04/94 at 13:30 Ross Anderson visited the premises
to investigate these claims. Ross called Peter Raphael on
03 5507309 and made 10 test calls, Ross was hanging up then
counting to 10 and picking the phone up again, each test
call was released (that is line was heard to drop out) at
5/05/94 9:10 ZV333
within 1 second of hanging up. Peter was able to hear Ross
count 1 then the line released.
I spoke to Ross whilst he was on site and we made further
test call (18 calls of which 2 were from 267267), during
these test calls we obtained the same result as previous,
that is the line released within 1 second. We also tried the
T200 from 267267 on 267230 and it released immediately on
hanging up. We then tested the suspect T200 on 267267 and it
displayed the same symptom on this different line. This T200
is an EXICOM and the other T200 is an ALCATEL, we thought
that this may be a design "fault???" with the EXICOM so Ross

SOLUTION = 5/05/94 9:27 ZV333
tried a new EXICOM from his car and it worked perfectly,
that is, released the line immediately on hanging up. We
decided to leave the new phone and the old phone was marked
and tagged, Ross forwarded the phone to F&M.D.
I was speaking to Mr Smith the next day (28/04/94) and he
said he has witnesses to prove that his phone used to hold
up for over 10 seconds. He wants a letter to say nothing
else has been fixed prior to the visit by Ross that could

520 R37911



12 April 1994

Our Ref: 011
Matter No:
Your Ref:

BY FACSIMILE: 617 4666

Mr Peter Bartlett
Messrs Minter Ellison Morris Fletcher
Solicitors
40 Market Street
Melbourne VIC 3000

Dear Peter

COT MATTERS

On 11 April I met with John Selak and John Russell of Ferrier Hodgson to discuss the impact of the latest draft of the "Fast-Track" Arbitration Procedure on the Resources Unit.

They made the following points:

- (a) in relation to clause 8.1, services will in fact be provided by Ferrier Hodgson Corporate Advisory (Vic) Pty Ltd, not Ferrier Hodgson Chartered Accountants. Either the name should be substituted or the words "Incorporating Ferrier Hodgson Corporate Advisory (Vic) Pty Ltd" should be inserted in the third line after the words "Chartered Accountants";
- (b) also in relation to clause 8.1, technical input will be provided by DMR Inc, not DMR Group Australia Pty Ltd. DMR wishes this substitution to be made;
- (c) the above changes should be reiterated in clauses 25 and 26 as presently drafted;
- (d) further in relation to clauses 25 and 26, both Ferrier Hodgson Corporate Advisory and DMR Inc are concerned about their potential liability. As the clauses presently read, they would be liable to a maximum of \$250,000.00 per claim. This is likely to significantly exceed their professional fees in relation to each claim. Ferrier Hodgson's preference (and also the preference of DMR)

11200408/CLIVE2
Level 31, 480 Collins Street, Melbourne 3000, Australia. Telephone (61-3) 614 8711.
Facsimile (61-3) 614 8730. G.P.O. Box 18284, Melbourne 3001. B1 262, Melbourne.
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12:25 13/04/94

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would be for a total exclusion of liability but, failing that, they would accept a lower cap more commensurate with their anticipated fees;

- (a) in relation to the Confidentiality Agreement appended as Schedule B, Mr Selak and Mr Rundle believe reference should be made to the Administrator in Annex 2. They would also prefer a single undertaking to be executed by Ferrer Hodgson Corporate Advisory (and another by D&M Inc) rather than by the various individuals within the organisation. They would remain vicariously liable for breaches by their employees.

I appreciate that one claimant has already executed the agreement in its current form. The others will no doubt be pressed to do likewise over the next few days. I further appreciate you will be reluctant to introduce additional changes to the draft procedure at this delicate stage of negotiations but it is of course also fundamental that account be taken of the concerns raised by members of the Resource Link. Perhaps the agreement should be executed in its current form and then agreement sought from the parties to vary the terms to take into account any proposals by Ferrer Hodgson or D&M which you agree are reasonable.

Could I suggest that you liaise direct with Mr Selak or Mr Rundle about these concerns? Perhaps they could also speak direct to Warwick Smith.

Yours sincerely


GORDON HUGHES

cc W Smith
J Selak, J Rundle

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