

**CAV
CHRONOLOGY
LGE**

Exhibit 234 to 281



THE HON PETER COSTELLO MP
TREASURER
MEMBER FOR HIGGINS

1027 High Street Armadale Vic 3143 Tel (03) 9822 4422 Fax (03) 9822 0319

Mr Alan Smith
Cape Bridgewater Holiday Camp
RMB 4408
PORTLAND 3305

Dear Mr Smith

I have received the material you forwarded at the request of Dawn and Harry Thorpe who are constituents of mine and for whom I have been providing assistance in my capacity as their local member of Parliament.

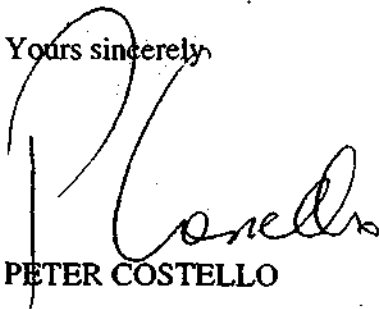
I have noted the contents of your letter. As you are aware the Minister for Communications and the Arts, Senator the Hon Richard Alston has portfolio responsibility for this matter. It may also be a matter you wish to bring to the attention of your local member Mr David Hawker MP who can be contacted on 03 5572 1100.

I note that some of the material has already been forwarded to Senator Alston and if you wish either I or Mr Hawker could refer to Senator Alston any of the material you have forwarded to me which has not been copied to the Senator.

I am quite seriously concerned about the allegations you make regarding the Telecommunications Ombudsman, Telstra Senior Management, the Arbitrators and the Resources Unit attached to the Arbitration. Any information you have of allegations of impropriety should be brought to the attention of Senator Alston and the Australian Federal Police.

I trust my comments are of assistance.

Yours sincerely,



PETER COSTELLO

- 8 OCT 1997

234

7 November 1997



**Telecommunications
Industry
Ombudsman**

**John Pinnock
Ombudsman**

Ms Lori Catelli
Department Of Communications
and the Arts
GPO Box 2154
CANBERRA 2601

Facsimile 02 6279 1555

Dear Ms Catelli

Mr Alan Smith - Ministerial Number 97101006

Thank you for your letter and attachments of 6 November.

Mr Smith has been dissatisfied with some aspects of his Arbitration which was completed in late May 1996 by way of an Award in his favour.

Mr Smith has made a number of allegations concerning a denial of natural justice and other improprieties in the past by variously, the Arbitrator, the Resource Unit and the Administrator.

I have considered each and everyone of these various allegations which I have found to be without substance.

It is correct that Mr Smith received documents from Telstra under the FOI Act, after the Arbitration was completed, which Mr Smith claims were relevant to his claim. Some of these documents were clearly duplicates of documents supplied during the Arbitration, while the balance do not appear to support his claim that he was denied natural justice. If Mr Kennedy of the Minister's office has expressed a contrary opinion, as claimed by Mr Smith, that is a matter for him.

The only issue which I am now considering is a claim by Mr Smith that alleged overcharging of his 1800 service was not considered during his Arbitration. I am seeking information from Telstra in this regard before I reach any preliminary view.

Yours sincerely

**JOHN PINNOCK
OMBUDSMAN**

235

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Telecommunications Industry Ombudsman Ltd ACN 057 634 787

atUcot/706

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Tel. Freecall 1800 062 058
Fax Freecall 1800 630 614



17 December 1997

Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

Mr Alan Smith
Cape Bridgwater Holiday Camp
RMB 4408 Blowholes Road
BRIDGEWATER
PORTLAND 3305

13/1

Facsimile 03 5526 7230

Dear Mr Smith *Alan*

I write to acknowledge receipt of your fax of 15 December 1997, concerning the matter of addressing the issue of charges for calls on your fax line.

The Ombudsman is currently on leave until mid-January. However, he did write to Telstra on 28 October about the matter, as you would know, and I have asked Telstra when a reply might be expected.

I shall advise you, when I receive that response.

[Handwritten signature]

Yours sincerely

[Handwritten signature: Wally Rothwell]
WALLY ROTHWELL
DEPUTY OMBUDSMAN

236

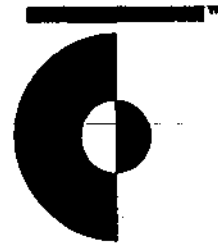
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Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

17 December 1997

Mr Ted Benjamin
Director, Consumer Affairs
Regulatory & External Affairs
Telstra Corporation
37 Floor/242 Exhibition Street
MELBOURNE 3000

Facsimile 03 9642 3235

13/11


Dear Ted

Mr Alan Smith - Dispute 1800 Charges

I refer to the Ombudsman's letter to you, dated 28 October 1997, requesting advice about call charges for Mr Smith's 1800 service.

Would you please advise as to when a reply might be expected?

Yours sincerely


WALLY ROTHWELL
Deputy OMBUDSMAN

237

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FILE NOTE*Legal and Professional Privilege Applies - Telecom Confidential*

2

FILE: MR ALAN SMITH
FROM: LYN CHISHOLM
SUBJECT: BILLING DISPUTE 1800 TELEPHONE SERVICE
DATE: 16 JANUARY, 1998

On 14 January, 1998, Lyn Chisholm and Phil Carless of Telstra's Customer Response Unit met with Mr Smith to examine documentation in relation to his complaints lodged with the Minister's Office and the Telecommunications Industry Ombudsman regarding his 1800 telephone service.

Mr Smith in these complaints had made general allegations with regard to overcharging of the 1800 telephone service, however, Telstra had not received any supporting documentation along with his complaints.

In telephone discussions with Mr Smith, I advised him that in order for Telstra to address his claims, documentation supporting his complaints would need to be forwarded to allow Telstra to fully investigate the matter.

Mr Smith raised concerns with regard to the matter and the Arbitration and I advised that I would be investigating any instances he put forward since the conclusion of the Arbitration. Mr Smith stated that he had evidence of instances that spanned through the Arbitration and that the problem was not addressed in the Arbitration and further that the same instances continued after the Arbitration.

I suggested that we meet so that Telstra could view the documents he was referring to and work at resolving the matter from there.

Meeting Notes 14 January, 1998**Present at Meeting**

Lyn Chisholm - Telstra
Phil Carless - Telstra

Alan Smith - Cape Bridgewater Holiday Camp
Ray Whitworth - Observer

Alan Smith explained that he had attempted to have this matter addressed in his Arbitration and via Austel and the Ministers office for quite some time. He believes that this issue was not addressed in his Arbitration although Telstra had given an undertaking to Austel in November, 1994.

I explained to Alan that it was my understanding that at the time Austel wrote to Telstra, the Arbitration was in process and that Telstra had written back to Austel and the Arbitrator that it believed the matter would be addressed in the Arbitration.

2

I then explained to Alan that Telstra had replied to the letter from Austel dated 4 October, 1994 and to further letters from Austel on this matter dated 1 December, 1994 and 3 October, 1995 and in this provided a response to his complaints of charging discrepancies and short duration calls on the 1800 telephone number.

Mr Smith put forward two copies of the Lanes Resource Unit reports. One that had been forwarded to him as part of the Arbitration and one that had been obtained from Dr Hughes's office by mistake when he collected his Arbitration documents.

In what appeared to be a "Draft" of the Lanes report, a paragraph appears relating to Mr Smith's billing complaints, that an addendum report was to be provided at a later date otherwise the report is complete.

Mr Smith stated that the issued report did not include the addendum report nor did it make any reference to his 1800 complaints.

Further Mr Smith produced various printouts of CCAS data in comparison with his Telstra accounts. In many instances the calls add up however, in some cases there appeared to be differences in the duration of the call times.

Mr Smith also provided Telstra accounts that showed an overlap in the time of calls.

Mr Smith stated that there were also discrepancies in details taken by the Commonwealth Ombudsman. He advised that he had asked the Commonwealth Ombudsman to only use the 1800 telephone number when contacting Mr Smith. In the Assessment Documentation for Mr Smith's claim for compensation for FOI matters, Mr Smith states that there is a large discrepancy between the number of calls listed by the CO as being made to Mr Smith and the number of calls he had been charged for on the 1800 account.

I note that the examples given by Mr Smith at the meeting spanned the period of the Arbitration and after the conclusion of the Arbitration.

I advised that Telstra had not seen copies of his examples and had not been able to clearly respond to his complaints without being able to examine the documentation he had put forward at the meeting.

Mr Smith advised that he had provided all details to the TIO office, I responded that we may not have seen all the documentation he had put forward and that the TIO at this point had not raised a formal dispute or complaint regarding the matter.

I advised Mr Smith that I would seek copies of any additional information that they may have with regard to his complaint.

Mr Smith advised that he would provide me copies of all documentation that he had with regard to the 1800 number and copies of the documentation he had produced at the meeting. Mr Smith advised that he would provide this material to me during the week beginning 19 January, 1998.

2

I advised that once Telstra had received the information, further investigation could be carried out in the matter.

Mr Smith again enquired about the matter of the Arbitration. I again advised that I would be examining the documents with regard to complaints after the Arbitration, and that a further response with regard to the Arbitration would be provided.



DEPARTMENT OF
COMMUNICATIONS
AND THE ARTS

Our Reference

FACSIMILE

To: Mr John Pinnock
Telecommunications Industry Ombudsman
Phone number: 1800-062-058
Facsimile number: 1800-630-614

From: Toni Ahkin
Phone number: (02) 6271 1509
Facsimile number: (02) 6271 1850
Date: 22 January 1998
Number of pages: Cover + 4

GPO Box 2154 Canberra ACT 2601 Australia Telephone (02) 6271 1000 Facsimile (02) 6271 1901 Email dea@oda.gov.au

Mr Pinnock

Further to our recent phone conversation I am forwarding Telstra's transcript of its meeting with Alan Smith, held on 14 January 1998 concerning his claim of overcharging on his 1800 number.

Mr Smith has undertaken to provide further documentation to Telstra.

Wally,
Please see * over page.
Do you know anything about that?

JA
22/1

John I spoke to Lyn Anderson. The meeting was at Schore's, not TPO. (Anderson?). He will tell Harry.
Wally 24/1

239



DEPARTMENT OF
COMMUNICATIONS
AND THE ARTS

RECEIVED

23 JAN 1998

Our Reference

FACSIMILE

To: Mr John Pinnock
Telecommunications Industry Ombudsman
Phone number: 1800-062-058
Facsimile number: 1800-630-614

From: Toni Ahkin
Phone number: (02) 6271 1509
Facsimile number: (02) 6271 1850
Date: 23 January 1998
Number of pages: Cover + 3

GPO Box 2154 Canberra ACT 2601 Australia. Telephone (02) 6271 1000 Facsimile (02) 6271 1901 Email dca@dca.gov.au

Mr Pinnock

Alan SMITH - Proposed replies for Senator Alston's signature

I am forwarding copies of our proposed replies (that will be sent to the Minister's office today) to David Hawker and Alan Smith in response to recent Min Rep's concerning the arbitration process and overcharging on Mr Smith's 1800 number.

*Don't seem to want specific comment from TIO.
Noted:-*

[Signature]
2/1



Wally This matter should be classified as a Scruple

Telstra

Please advise Jim & handle yourself. We shall need to

4 February 1998

double check P. of any raw data etc Smith will have sent us.

RECEIVED

6 FEB 1998

Please discuss content of letter to Smith. J.P.

9/2.

Regulatory & External Affairs

37/242 Exhibition Street
Melbourne Vic 3000
Australia

Telephone 03 9634 2977
Facsimile 03 9632 3235

Mr John Pinnock
Telecommunications Industry Ombudsman
315 Exhibition Street
Melbourne Vic 3000

Dear John

Mr Alan Smith - Dispute 1800 Charges

I refer to your letters of 28 October, 1997 and 17 December, 1997. I apologise for the delay in responding in writing to your office.

Telstra has examined the information forwarded by your office with regard to Mr Smith's 1800 telephone service and is currently conducting an investigation into Mr Smith's complaints. Telstra staff have visited Mr Smith to discuss the matter and your assistance is required to locate relevant documentation previously referred to the TIO by Mr Smith. Ms Lyn Chisholm has been in contact with your office about this matter.

These investigations cover the period 12 May, 1995 to 19 December, 1997 when the telephone service was disconnected at Mr Smith's request. Telstra will not be investigating complaints relating to the period before the Arbitration Award that was handed down on 11 May, 1995 as Telstra considers that this matter was included in the Arbitration and is finalised.

With regard to your query whether the matter was not addressed in Mr Smith's Arbitration, Telstra recalls that Mr Smith did raise issues relating to his 1800 telephone service in his claim documentation, however, pursuant to the rules of Fast Track Arbitration, Telstra has returned these documents to Mr Smith and therefore we are unable to make comment on the specific matters raised.

241



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Further, Telstra responded to investigations undertaken by Austel on 16 October, 1995. This response related to correspondence from Austel dated 4 October, 1994, 1 December, 1994 and 3 October, 1995. This response addressed Mr Smith's concerns relating to Telstra's billing of 1800 telephone services and also the specific instances of alleged overcharges that were raised. A copy of this letter is enclosed for your information.

I note that in Mr Smith's correspondence addressed to your office, many of the issues he has raised relate directly to the Arbitration. Telstra considers that it is not appropriate for it to respond to complaints directed at the Arbitration or the parties involved in the Arbitration process aside from Telstra. Given this Telstra is unable to respond to many of the issues raised by Mr Smith.

I attach for you a summary of investigations to date. It is envisaged that it may take a number of weeks to retrieve archive information and conduct an analysis of the call data associated with the 1800 telephone service. Your assistance in regard to the documentation forwarded to the TIO by Mr Smith would be appreciated.

Telstra will provide further information to your office as it becomes available.

Yours sincerely



Ted Benjamin
DIRECTOR, CONSUMER AFFAIRS

241

** COMPLAINT ID ** 1286794

COMPLAINT DATE : 24/09/2002
STATUS : Closed/Resolved (Closed on : 28/10/2002)
CURRENT OWNER : ██████████
SC Level : FLM

Action Code : Transfer Action Date 16/10/2002
Created By : ██████████ Create Date 16/10/2002
File Exist ?
Description : For action
Transfer To : ██████████

Action Code : Accept Ownership Action Date 16/10/2002
Created By : ██████████ Create Date 16/10/2002
File Exist ?
Description : Accepted ██████████

Action Code : Transfer Action Date 16/10/2002
Created By : ██████████ Create Date 16/10/2002
File Exist ?
Description : Hi ██████████
Exch = CBWR PSA = WESTERN
Transferring for investigation.
Thanks, ██████████
Transfer To : ██████████

Action Code : Contact with Customer Action Date 16/10/2002
Created By : ██████████ Create Date 16/10/2002
File Exist ?
Description : Min Rep 20021000381. David Hawker MP has written to
Senator Alston on 10 October and included a 3 October
letter from Darren and Jenny Lewis. This 3 October
letter has been cc'd to the TIO but doesn't seem to have
made it's way into Telstra yet. Will follow in Cicero
and respond accordingly. Hopefully, the TIO will become
involved and that will take the Minsiter and Member out
of the equation
Contact : Lewis, Darren, Mr
Channel : Letter

Action Code : Accept Ownership Action Date 17/10/2002
Created By : ██████████ Create Date 17/10/2002
File Exist ?
Description : accept ownership

242

100265

26 February, 1998



Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

TIO Ref: D/98/3

Mr Alan Smith
Cape Bridgewater Holiday Camp
RMB 4408
PORTLAND, VIC 3305

Dear Alan

Consequent upon the receipt of your letters of 17 and 18 February, 1998, the Ombudsman has asked me to seek the opinion of the Special Counsel to the TIO under the FTAP, as to whether the aspects raised in those letters are matters which ~~were or should have been decided by the Arbitrator in the Award he made.~~

In addition, it may also be necessary to seek advice from Ferrier Hodgson Corporate Advisory and Lane Telecommunications.

With regard to the 1800 charges after 11 May, 1995, which you dispute, notwithstanding the advice sought above, this will be raised separately as a Dispute with Telstra. However, I shall not be able to progress it satisfactorily until we have sorted out the above question.

I shall keep you informed of developments.

Yours sincerely,



WALLY ROTHWELL
DEPUTY OMBUDSMAN

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FERRIER HODGSON CORPORATE ADVISORY

17 March 1998

Mr Alan Cameron
Chairman
Australian Securities Commission
Level 23
Bourke Place
600 Bourke Street
MELBOURNE VIC 3000

COPY

Dear Sir,

RE : Facsimile from Mr Alan Smith to the Australian Securities Commission
("ASC") dated 10 March 1998

I would like to take the opportunity to strongly refute a number of serious, unsubstantiated, defamatory allegations contained in a facsimile dated 10 March 1998 from a Mr Alan Smith to Ms Marie Scalise, ASC Complaints Assessment Management Program (copy attached for your convenience).

By way of background I am Chairman of Ferrier Hodgson Corporate Advisory (Vic) Pty Ltd ("FHCA"). FHCA is part of the firm of Ferrier Hodgson, Chartered Accountants and is the appointed Resource Unit to the Telecommunications Industry Ombudsman ("TIO"). This appointment required FHCA to act as the Resource Unit on a number of Arbitrations between Telstra and their customers.

Mr Smith had a long running dispute with Telstra and agreed to Arbitrate his complaint. FHCA, along with technical experts Lane Telecommunications Pty Ltd ("Lane") and DMR Canada Inc ("DMR") collectively acted as the Resource Unit on Mr Smith's Arbitration. Mr Smith's complaint against Telstra was Arbitrated and an award in his favour was handed down on 11 May 1995. As neither Mr Smith nor Telstra appealed the award, the Arbitration is considered finished.

Since 1995 Mr Smith has been making a number of allegations against DMR, Lane and, to a lesser extent, FHCA concerning whether or not certain claim documents were addressed by the Resource Unit and whether sections of the assessment reports were altered at the request of the Arbitrator. We have previously responded to these allegations to the TIO. We have stated that all documents submitted by Mr Smith were considered in our analysis and our reports were not altered at the request of the Arbitrator or any other party.

For your information I have provided the following response to Mr Smith's allegations in his facsimile of 10 March 1998:

Point 4: DMR, Lane and FHCA did consider all of the Claim documents submitted by Mr Smith.

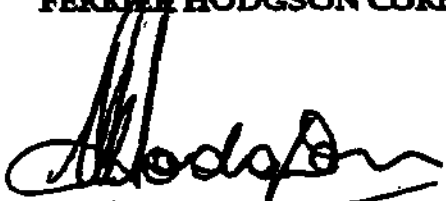
Point 5: DMR and Lane did address all of the claim documents submitted to the Arbitrator.

Point 6: This statement has been refuted previously in a letter to the TIO. Under no circumstances did the Arbitrator or any other party instruct FHCA to withdraw large amounts of information from our report on Mr Smith's Claim.

In closing I would like to strongly refute Mr Smith's suggestion that FHCA, Lane or DMR submitted an incomplete report to the Arbitrator, or in any other way conspired to deny Mr Smith natural justice or acted in a way that was unprofessional or prejudicial to Mr Smith.

If I can be of any further assistance please do not hesitate to contact me.

Yours sincerely,
FERRIER HODGSON CORPORATE ADVISORY



A G HODGSON
Chairman

Encl.

cc: Mr Tom Dale, Assistance Secretary, Department of Communication and the Arts
(Fax: 02 6271 1555)
Mr David Hawker MP, Federal Member for Wannon (Fax: 03 5572 1141)
Mr John Pinnock, Telecommunications Industry Ombudsman (Fax: 9277 8797)

244



**Telecommunications
Industry
Ombudsman**

**John Pinnock
Ombudsman**

21 May 1998

Mr David Hawker MP
Federal Member for Wannon
Electorate Office
190 Gray Street
HAMILTON 3300

Facsimile 03 5572 1141

Dear Mr Hawker

Mr Alan Smith

I refer to your letter of 14 May 1998.

As you may be aware, Mr Smith has written to this office on numerous occasions concerning aspects of his Arbitration which was completed in May 1995.

The vast majority of Mr Smith's complaints seek, in effect, to review the conduct of the Arbitrator, or the Resource Unit or both, as well as the Arbitrator's Award. I advised Mr Smith from the outset that these matters which can properly be raised only by way of an appeal against the Arbitrator's Award. Mr Smith has not accepted this advice and has sought to reopen the Arbitration through other venues.

Recently, Mr Smith has raised a question as to whether the Arbitrator's Award dealt with his complaint that he had been overcharged on his \$00 (now 1800) freecall service. As this is a matter which I can properly consider, I have made preliminary enquiries of Telstra and have also sought advice from Mr Peter Bartlett, Special Counsel, Minter Ellison.

I have also decided to discuss this issue with the former Arbitrator, Dr Hughes.

Yours sincerely

**JOHN PINNOCK
OMBUDSMAN**

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Att/PLAIN/895

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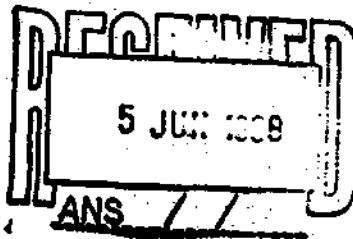
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17-10



SENATOR THE HON RICHARD ALSTON
Minister for Communications, the Information Economy and the Arts
Deputy Leader of the Government in the Senate

Mr David Hawker MP
Member for Wannon
190 Gray Street
HAMILTON VIC 3300



29 MAY 1998

Dear Mr Hawker

David

Thank you for your representations of 27 February 1998 and 27 March 1998 on behalf of Mr Alan Smith of Cape Bridgewater Holiday Camp, RMB 4408, Portland, VIC 3305, concerning his complaint that Telstra had overcharged him on his 1800 telephone account. I apologise for the delay in responding to you.

I am enclosing for your information a copy of a letter sent to Mr Smith from the Department of Communications and the Arts on 13 February 1998 and a further letter that I sent to you in my reply of 27 February 1998.

↓
I understand that Mr Smith gave Telstra an undertaking in January 1998 that he would provide Telstra with any documentation he had in his possession supporting his claims. The Telecommunications Industry Ombudsman has also advised that the matter is still under consideration.

I consider it inappropriate for the Government to intervene in this matter, particularly while it is still under investigation by the Telecommunications Industry Ombudsman.

Thank you for your advice on this matter.

Yours sincerely

RICHARD ALSTON
Minister for Communications,
the Information Economy and the Arts

Encls.

246

FACSIMILE MESSAGE

9 June, 1998

TO: Mr Alan Smith

FAX No: 03 5526 7230

FROM: Wally Rothwell

No. Pages: 1 (Including this one)

Dear Alan

I write to advise you of what I am doing regarding your case, as I have not been in touch with you for a while now, having also received a number of letters from you in the meantime.

I have discussed with John Pinnock your request that we somehow arrange to fast-track a resolution of the matters which have dogged you and which you believe have not been considered satisfactorily or even at all during the arbitration process. I have also read all the papers which you have sent me over the last couple of months and have recently received a letter from David Hawker, regarding your disconnected Gold Phone.

At John's suggestion, I have been trying to meet with Gordon Hughes for the last two weeks, but I was unable to make the first appointment due to illness and, for the same reason, Gordon has been unable to see me, he having been unable to attend at two appointments made last week. I understand that he is still recovering and am awaiting another appointment, hopefully sometime this week.

↙ The purpose of my intended meeting with Mr Hughes is to clarify whether he did consider the 1800 issues during the arbitration. I may also speak to him about the Gold Phone matter as well.

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John Pinnock
Ombudsman

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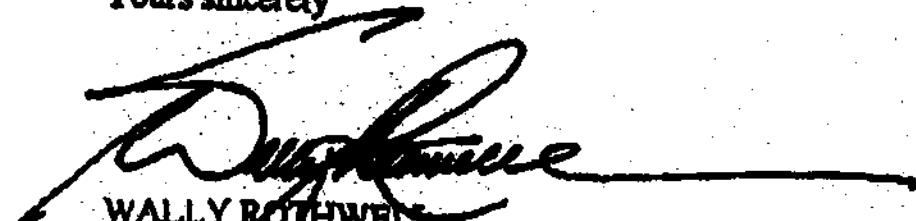
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78

The Ombudsman's advice to me though, is that he is only prepared to discuss or investigate the 1800 matter of overcharging and the Gold Phone issue if that appears to be necessary, after I have looked into it initially. ✓

I received your message last Friday afternoon that you wanted me to call on an unrelated matter to your complaints, but was unable to do so as I was involved with another complainant all day. I shall give you a call this afternoon if I may though.

Yours sincerely



WALLY ROTHWELL
DEPUTY OMBUDSMAN

247

A7.

FACSIMILE MESSAGE

17 June, 1998

TO: Mr Alan Smith**FAX No: 03 5526 7230****FROM: Wally Rothwell****No. Pages: 1 (Including this one)**

Dear Alan

Further to my fax to you of 9 June, I wish to advise that I have now arranged to meet with Mr Gordon Hughes on Wednesday, 1 July. This is the first available opportunity for such a meeting, as he is overseas and I am on leave for six days from today.

I understand that you are going through a hard time at the moment and, while I cannot guarantee a successful outcome of your 1800 complaint, hope that you can bear with this delay. I wish to assure you that there is no hidden agenda behind the delay. It is simply a case of difficulty in meeting with Mr Hughes and my consideration that such a meeting is essential to making any headway with the matter.

I will talk to you on my return from leave.

Kind regards



**WALLY ROTHWELL
DEPUTY OMBUDSMAN**

**Telecommunications
Industry
Ombudsman****John Finnock
Ombudsman**

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WAL. R. HUNT, M.A., LL.B.
SOLICITOR

CONSULTANT:
F. J. R. HUNT, B.A., LL.B.

ASSOCIATE:
J. R. P. HUNT, B.A., LL.B.

HUNTS'
SOLICITORS AND CONSULTANTS

MITCHELL HOUSE
358 LONSDALE STREET
MELBOURNE 3000
(CNR. ELIZABETH & LONSDALE STREETS)

PHONE: 9670 5694
FAX: 9670 6598

YOUR REF. **WRH.DF**
OUR REF.

29 June 1998

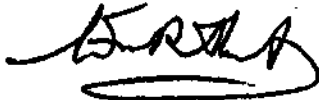
Mr Alan Smith
Capebridgewater Holiday Camp
RMB 4408
PORTLAND VIC 3305

Dear Mr. Smith,

There are enclosed six sheets of paper which are the material received by fax from you this morning. I have numbered each of the pages at the bottom in ink and signed my name on the two blank pages.

There is a seventh separate page which is a read-out from our fax machine as at quarter to three this afternoon.

Yours truly,



HUNTS'

(SENT TO THE TIO.)

249

DATE	START TIME	REMOTE TERMINAL IDENTIFICATION	TIME	RE-SULTS	MODE	TOTAL PAGES	PERSONAL LABEL	FILE NO.
TRANSMISSION								
JUN 26	02:42PM		00'33"	OK	ESM	01		003
	03:07PM		01'28"	OK	SM	02		005
	03:30PM	0355267230	03'46"	OK	SM	07		009
	03:34PM		00'31"	OK	ESM	01		010
	04:28PM		05'35"	OK	SM	06		014
	05:18PM		00'57"	OK	SM	01		023
JUN 29	09:09AM	96083016	00'49"	OK	ESM	02		024
	09:36AM		01'16"	OK	ESM	03		025
	09:38AM		00'28"	OK	ESM	01		026
	10:50AM		00'27"	OK	ESM	01		029
	02:16PM		00'27"	OK	ESM	01		031
	02:52PM	COMBANK IB	00'33"	OK	ESM	01		033
	03:08PM	CBA FIN MARKETS	00'32"	OK	ESM	01		034
	03:18PM		00'43"	OK	ESM#	02		036
	03:18PM		00'35"	OK	ESM#	02		037
	03:20PM		00'45"	OK	ESM	02		035
	03:33PM		00'54"	OK	ESM	02		038
RECEPTION								
JUN 26	01:37PM		00'42"	OK	ES	01		098
	02:20PM		01'29"	OK	S	01		099
	02:23PM		00'56"	OK	S	01		100
	02:27PM		01'44"	OK	S	02		002
	02:45PM		02'36"	OK	S	03		004
	03:19PM		00'48"	OK	ES	01		006
	03:20PM		00'48"	OK	ES	01		007
	03:22PM		01'01"	OK	ES	03		008
	03:42PM		00'26"	OK	ES	01		012
	04:23PM		01'49"	OK	ED	03		013
	04:35PM		00'58"	OK	ES	02		015
	04:37PM		05'10"	OK	S	05		016
	05:07PM		00'53"	OK	ES	01		019
	05:50PM		00'55"	OK	S	01		021
JUN 29	10:11AM		00'35"	OK	ES	01		027
	10:31AM		02'16"	OK	S	04		028
	12:00PM		00'36"	OK	ES	01		030
	02:42PM		01'43"	OK	ES	04		032

TX:016754

RX:014657

E)ECM >)REDUCTION S)STANDARD @)FORWARDING M)MEMORY C)CONFIDENTIAL #)BATCH
 D)DETAIL F)FINE \$)TRANSFER P)POLLING

250

Facsimile



To [REDACTED]

Network Products
National Facsimile Support C
23 rd Floor 242 Exhibition St
Melbourne. 3000

Company Telecom Portland

Australia

Facsimile 055 236 56

Telephone 03 634 6993
Facsimile 03 640 0997

From [REDACTED] T

Subject COT Case

K01489

Date 29 October 1993

[REDACTED] The following pages are copies of my fax machines journal and the protocol printouts of failed calls.

On the date of 28-OCT-93 we were trying to create a line failure condition that would re-produce the same error on the transmitting machine and no record on the receiving Mitsubishi machine (055 267 230). The reason for this was to show that a sending fax machine could get to the point of transmitting a page to the Mitsubishi fax machine without the Mitsubishi machine having any record of the call.

The COT case call in question was the 27-10-93 at 10:46 on the journal (it is suspected that the clock in this machine is approx ~~1 Hour and 15 minutes~~ ^{25-30 minutes} in error). The duration of the transmitting machine page of 2:21 minutes suggests that the call failed at the end of the page, possibly when requesting a reply from the receiving end. The presence of the ID in the journal of "055 267230" indicates the call was connected to the Mitsubishi fax machine in question. The receiving Machine has no matching entry in its journal for this call.

A call was placed to 055 267230 and connectivity terminated at the beginning of the page but this resulted in an error of NG in the journal along with the ID of the calling fax machine. The only way to reproduce the conditions experienced above was to interrupt the power on the receiving Mitsubishi fax machine. This would result in an entry in the transmitting machine and no entry whatsoever in the receiving Mitsubishi machine.

→ During testing the Mitsubishi fax machine, some alarming patterns of behaviour were noted, these affecting both transmission and reception. Even on calls that were not tampered with the fax machine displayed signs of locking up and behaving in a manner not in accordance with the relevant CCITT Group 3 fax rules. A half A4 page being transmitted from this machine resulted in a blank piece of paper 4cm long. the relevant protocol printout in sample #2 shows that the machine sent the correct protocol at the end of the page. Even if the page was sent upside down the time and date and company name should have still appeared on the top of the page, it wasn't. During a received call the machine failed to respond at the end of the page even though it had received the entire page (sample #3). The Mitsubishi fax machine remained in the locked up state for a further 2 minutes after the call had terminated, eventually advancing the page out of the machine.

Regards

[REDACTED]

Telstra Corporation Limited
ACN 051 775 556

250

Darren and Jenny Lewis
Cape Bridgewater Coastal Camp
RMB 4408, Cape Bridgewater
Portland, 3305
Phone: 03 55 267 267

23rd January 2003

Mr John Pinnock
Telecommunication Industry Ombudsman
P Box 276
Collins Street West
Melbourne 8007

Dear Mr Pinnock,

During a conversation with a representative from David Hawker's office earlier today, I was advised to ask your office to investigate the phone problems my wife and I have continually experienced since we bought our business from Alan Smith in December 2001.

Although these phone problems have decreased dramatically since Telstra rewired the business and disconnected the phone alarm bell recently, we still have problems with the fax line, as was demonstrated when I attempted to send a fax to your office yesterday. I am also concerned that, since the rewiring, Telstra's CCAS data still shows as many as seven incoming calls a day not being answered, even though we are at home at the time.

As well as speaking to David Hawker's representative this morning, I also had a disturbing discussion with Tony Watson, the Telstra fault technician assigned to my case. Mr Watson informed me (in a round-about way) that he is reluctant to supply me with any more information in relation to our phone faults because he knows I am in contact with Alan Smith, the previous owner of the business. Apparently Telstra is afraid that, when talking to Alan, I might bring up the phone problems and therefore provide him with information he could use in an attempt to reopen his arbitration. I am not interested in Alan's past phone problems, or his arbitration, except from the perspective of his obviously blatantly misleading reassurances, when we first bought the business, that Telstra had fixed all the phone faults.

Before we bought this business, my wife and I ran another business of our own for five years, successfully using the telephone, fax and Internet to sell memorabilia. Never before have we experienced phone faults like those we have had to cope with since we moved to Cape Bridgewater.

Since I am certainly *not* working in liaison with Alan Smith (as was suggested this morning by Telstra's Tony Watson), I am therefore now asking your office for advice on this matter in the hope that you will be able to help us to repair the damage that has been done to our business to date.

Will you please assist us in this matter?

Sincerely,

250

Darren and Jenny Lewis
Copy to: David Hawker MP, Federal Member for Wannon, 190 Gray St, Hamilton 3300

Darren and Jenny Lewis
Cape Bridgewater Coastal Camp
RMB 4408 Cape Bridgewater
Portland, 3305
Phone: 03 55 267 267

21st January 2003

David Hawker MP
Federal Member for Wannon
190 Gray Street
Hamilton 3300

Dear Mr Hawker,

I am reluctant to write and bother your office so soon considering your immediate response today to my letter to you yesterday and the traumatic issues facing Australians at the moment with drought, fires and the threat of terrorism.

Like all good Australians my wife and I are proud of our heritage never for one moment believing we would ever challenge the system we live in. What has happened to my wife and I since we purchased our business of Alan Smith at three o'clock in the morning writing to you like this is our own trauma.

After five tries yesterday or was it six to fax you the letter you so promptly have responded to this morning and when discussing this problem which has been common since we foolishly believed all the phone faults were now rectified. Tony Watson, my Telstra fault liaison officer informs me the fax problems I experienced yesterday when sending you my letter was a fault with your facsimile and not ours.

If I was not so stressed out and could actually see Tony Watson in person I would laugh in the face at his suggestion the faults are with your service. Has he forgotten that Telstra had problems just weeks ago trying to receive similar faxes from me, or has he misunderstood my evidence which confirms a number of schools, and tradesperson have all experienced the same problems when receiving or sending faxes here.

Mr. Watson and another Telstra (level 3) Telstra technician called Bert, had three theories to what could have cause the fax problems with your service or was it my service they were discussing? Either way theory:

- 1) the facsimile machine sending the documents to your office was at fault
- 2) the facsimile machine receiving the documents (your fax machine
- 3) the local cable in the Cape Bridgewater area was the culprit

Tony Watson stated to me yesterday that from the transmissions tests carried out on my facsimile machine yesterday afternoon we passed with flying colors. This now leaves your facsimile machine or the Cape Bridgewater local Cable. Alan Smith has informed me that after purchasing three different facsimiles since April 1994, he has had the same type of fax problems both at the camp and his residence. Alan Smith has informed me after being aware of similar transmission problems at his residence when faxing people like the Hon Peter Costello, Senator Len Harris, The Hon John

250

Howard Prime Minister of Australia, Tony Shaw, Chairman of the ACA, and the Major Fraud Group Victoria Police. He either sought those faxed documents from these prominent people or received copies of those faxed documents under the TIO policy Privacy Act. It appears from viewing these above mentioned returned faxed documents including other numerous returned faxed documents to Alan, that this transmission problem surely would not be with so many prominent politicians their facsimiles along with your own.

I am advised Alan sent you a sample of a letter he received this week from the ACA who have acknowledged they received an illegible faxed document from him on the 23rd December 2002.

So from what Tony Watson and this Bert, gentlemen are saying of these three theories only one theory has not been eliminated which is the local Cape Bridgewater Cable.

If I might be so pertinent to both you and Senator Richard Alston, I ask you the following questions.

How would you feel in an election when things are very close a 'cliff hanger' and for every second or third vote you knew someone was crossing off the tick on your box on the ballot paper and unlawfully ticking your opponent?

How would you feel if you could do nothing to avoid this happening aware you would lose your seat helpless to do anything?

Up until Telstra December 9th 2002 before Telstra re-wired this business that's how I felt helpless. Now I am being told my Federal Member of Parliament his fax is the problem not mine.

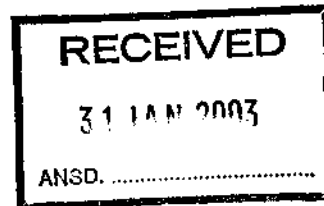
Mr. Hawker, how much longer is this Telstra charade going to last?

Yours Sincerely

Darren and Jenny Lewis



OFFICE OF THE MINISTER FOR COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS
Senator the Hon Richard Alston



29 JAN 2003

Mr David Hawker MP
Member for Wannon
190 Gray Street
HAMILTON VIC 3300

Dear Mr Hawker

Thank you for your representations of 20 January 2003 on behalf of
Mr Darren Lewis concerning Telstra services.

The issues raised in your letter are receiving attention and the Minister will respond to
you shortly.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Michael Brealey".

MICHAEL BREALEY
Liaison Officer

250

16 July, 1998

Mr Alan Smith
Cape Bridgewater Holiday Camp
RMB 4408
PORTLAND VIC 3305

Fax: 03 5526 7230

Dear Alan

I refer to our telephone conversation this morning and your serious concerns about the recorded message left on your answering machine.

I spoke to Mr Pinnock this afternoon about the matter. I mentioned also your letter to the Prime Minister and gave him a very brief outline of its contents. I further outlined your concerns about the fax pages which you consider did not reach the arbitrator, during your arbitration, and the mysterious blank pages.

Mr Pinnock intimated that he had also been in dialogue with the Department of Communications and the Arts, regarding the TIO's position in relation to matters raised recently by you, and he is providing them with a compendium response to some of their questions.

Regarding the incident with your answering machine, he has advised me that the TIO has no jurisdiction to investigate this matter and that you must take it up with either the State or Federal Police. You will recall that that was my thought also, this morning. While we would assist if we could, we have absolutely no investigative or coercive powers in matters such as this; nor do we have the expertise of the police.

With regard to the 1800 and Gold Phone matters, I have received information from Mr Bartlett and have asked Dr Hughes about his consideration of the matters during arbitration. I shall advise you when I have his response. Regarding the blank fax pages, I have asked Telstra, without mentioning your name, how this could happen.

Yours sincerely


WALLY ROTHWELL
DEPUTY OMBUDSMAN

Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

251

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

Telecommunications Industry Ombudsman Ltd ACN 057 634 787

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National Headquarters
315 Exhibition Street Melbourne Victoria 3000

Box 18098
Collins Street East
Melbourne
Victoria 8003

Telephone (03) 9277 8777
Facsimile (03) 9277 8797
Tel. Freecall 1800 062 058
Fax Freecall 1800 630 614

Alan Smith
Cape Bridgewater Holiday Camp
Blowholes Road
RMB 4408
Portland 3305
Victoria, Australia.

24 July 1998

Phone: 03 55 267 267
Fax: 03 55 267 230

Mr Wally Rothwell
Deputy Ombudsman
Telecommunications Industry Ombudsman's Office
Melbourne

Dear Wally,

Another chronological list of faxes which have been lost in transit to Dr Hughes is enclosed. ↙
Please note my signature on the covering letter which I wrote to Dr Hughes on 13/10/94 and which was sent at 14.20 to fax number 03 6148730. The page which followed this covering letter states "Extended page 1.1" in the top right hand corner but since I signed off on the covering letter it is clear that there was no extended page. Further, page 14, timed at 14.27, is a letter from the Commonwealth Bank which was also signed off, indicating that this document was complete. It is clear that the following document however, which is marked "Extended page 14.1", was not an extension of page 14 but should have been another page altogether. So the same fault occurred on page 1 and page 14.

As you know, the very reason I was in Arbitration in the first place was because of ongoing problems with my phone lines and because my technical advisor and I had proved that these phone faults had adversely affected my business. Did it not occur to the Arbitrator, at any time during my Arbitration, that these blank fax pages provided even more proof that my original complaints were founded on fact? I am aware that the Arbitrator was often overseas during the time of my Arbitration and therefore not available to directly supervise the running of his office but surely this should not have affected the quality of the attention he paid to my case. At no time did Dr Hughes or his staff ask me to re-fax pages which had come out blank at their end.

The TIO's Legal Counsel for the COT Arbitrations, Minter Ellison Morris Fletcher, rang me twice when they couldn't fax a ten page document to me on 21 March 1994. Their records will no doubt show that they finally succeeded in sending this fax on 22nd March. This was one of many similar incidents which I included in my claim for the Arbitrator's attention during the FTSP / FTAP. At least the TIO's Legal Counsel followed-up to make sure that these legal documents were received properly.

252

During my Arbitration, Dr Hughes's office was provided with a letter from Austel dated 20 June 1994, outlining my concerns regarding the ability of my fax machine to receive and/or send documents during my Arbitration. Perhaps this Austel letter also arrived at Dr Hughes's office as a blank page because I certainly never received a directive from Dr Hughes to re-send my claim documents because he hadn't received some pages correctly.

I have been told that during the time that Dr Hughes was Arbitrating on the COT matters he also sat for exams with the Institute of Arbitrators, Australia, to be admitted into the Institute as a graded arbitrator. I have also been told that he failed these exams. I believe there is no stigma to be attached to failing exams; I have failed myself, only receiving my diploma in hotel/motel management on my second attempt. The difference is that I went back and worked out where I had gone wrong the first time, before I sat for the exam the second time. Perhaps Dr Hughes should have gone back over the process of my Arbitration: perhaps he would then have noticed that he had not received all my claim documents leading to a situation where Telstra could not properly assess my claim.

My previous correspondence to your office, together with this letter, clearly shows that not all my claim documents were defended by Telstra. The flow-on result of this omission was that when I prepared my written response to their Defence, under the rules of the Arbitration, I was responding to an incomplete defence. Since the Arbitrator reached his final award as a result of assessing Telstra's documents as well as mine, this meant the errors were compounded all along the way.

Further, as Legal Counsel to the TIO, Minter Ellison were supposed to be supplied with copies of all correspondence between myself, Telstra and the Arbitrator, so the Legal Counsel missed out on seeing some claim documents too.

***One example of a possible missing document:* At one point during the Arbitration procedure I advised the Arbitrator that the rate of tourism in the South Western Region had increased over the 6½ year period of my claim. I supported this information with statistics supplied from a number of different sources yet in his 'award' of 11 May 1995, Dr Hughes stated that the rate of tourism had declined during this same period and he had to take that into account when he assessed my losses. I can only assume that this was one of the claim documents that never arrived at Dr Hughes's office and so here is an example of where the lost faxes contributed to a further loss for me (in the Arbitrator's findings). Since then I have provided to the TIO's office and my local Federal Member of Parliament, David Hawker MP, with copies of the Lands & Parks assessment regarding this increase in tourism.**

Over the years, in an attempt to uncover the reason for the Arbitrator and his technical evaluation resource unit (DMR & Lanes) only managing to locate 26 faults for assessment, over my claim period of 6½ years, I have written some 600 or more letters to a number of different Cabinet Ministers and compiled three individual submissions which were also provided to various Government Ministers.

252

The pieces of the puzzle are beginning to fit together now that it appears that neither the Arbitrator or the resource team actually saw all the claim documents I believed I had submitted and which I intended Telstra to address in their defence of my claims. Now, 3½ years later, we know that many of these claim documents never reached their intended destination. This situation raises the following questions:

- A. Were these blank pages caused by Telstra's faulty network? or
- B. Were the documents intercepted (as shown by the symbols that appeared on a number of the blank pages)?

The following documents are also enclosed for your perusal:

1. A copy of page 36 from my reply to Telstra's defence: please note the comments which have been underlined.
2. Three pages regarding George Close and Assoc. and their assessment of my fax service line. This is the service line that Telstra covered in a 29 page report which they submitted as part of their defence. In this report Telstra technicians alleged that they had found beer inside the fax/phone. They also alleged that the beer was *still wet and sticky to the touch* when it was received at Telstra's laboratories, *10 days after it had been collected from my office (28 April 1994)*, thereby causing the faults on this service line, 267 230. These faults continued at least until October 1994 as records show. Perhaps it was the service line that was continually drunk and not the hand set connected to the fax machine?
3. A copy of a letter sent to Jim Holmes, Telstra's Corporate Secretary from Fay Holthuyzen, assistant secretary to the Minister for Communications and the Arts.

I am now asking that the TIO's office be directed to ask their Legal Counsel to provide a full and comprehensive list of all my claim documents and correspondence which they received from Dr Hughes during my Arbitration. I look forward to advice regarding what the TIO and his Legal Counsel intend to do regarding all the matters I have raised over these past two weeks.

Regards,

Alan Smith

copies to:

The Commissioner, Federal Police, Canberra
The President, The Institute of Arbitrators, Australia
The President, The Law Institute of Australia, Melbourne

252



Chrissy Hawker's SECRETARIAL SERVICE

24th July 1998

Mr. Alan Smith,
Cape Bridgewater Camp,
PORTLAND. 3305.

Dear Alan,

Just a quick note to describe to you what actually happened with our fax transmission this morning.

I received a fax call at approx 8.23am this morning the 24th July. 3 Pages came through my fax machine as normal but the 4th page was very, very slow as if it was having difficulty coming through.

I checked my machine and all I could see coming through was black lines running across the page and down the whole of the page. This page on its own must have taken a minute or more to come through.

As it was still coming through you contacted me asking if there was a problem with this page. I stated what was happening as you were talking to me and you stated that you would repeat this same page for me.

The 4th page of the document then came through with no problem.

On a number of previous occasions I have experienced other trouble with your transmissions and I have listed them below for you.

- Blank Paper coming through in the middle of transmission.
- A strip of approximately 3cm coming through.
- Distorted figuration that looks like stretching of letters appearing at the end of a page.
- A page with black lines all the way as described above.

As you can appreciate, being the only secretarial service in Portland, my fax machine is a valuable tool in my office and as to date I have never experienced problems with any of my other clients.

Regards,

CHRISSEY HAWKER

253

I, RONDA FIENBERG

of 10 Appleberry Place, North Ringwood, Victoria, Australia

do solemnly and sincerely declare

THAT

Alan Smith of Cape Bridgewater Holiday Camp has been a regular client since 30/7/94 and the majority of his work comes to my office by fax.

Many times over the years I have received unreadable pages where the fax slowed right down and the words on the incoming page have been dragged out into long, dark lines - totally illegible. This has meant I have had to ring Alan (long distance) and ask him to re-send the problem page (or pages).

Also, on many, many occasions, about a 2 cm strip is sliced off the start of incoming pages and then, when the rest of the page comes through, the first few lines are missing. This has never happened with any other client, including incoming faxes from overseas and interstate.

DECLARED at CROYDON in the

State of Victoria this

day of

nine hundred

Before me

24th

one thousand

July
+ eighty-eight

A. Gambetta

ANN ELIZABETH GAMBETTA
A NATURAL PERSON WHO IS A CURRENT
PRACTITIONER WITHIN THE MEANING OF
THE LEGAL PRACTICE ACT 1996.

Suite 7, 16-18 Croydon Road
CROYDON Vic 3136

R. Dowling

254

Mr Alan Smith
Cape Bridgewater
25/7/98

Dear Alan,

This letter is to confirm that during our electronic communications between Cape Bridgewater and Geelong during the past two years there have been occasions when:

- incomplete faxes of materials were received (part pages, black pages or extended pages)

and

- initial faxes were never received by me, and that a re-faxing was required from you or Cathy.

Regards,


Robert Palmer.

Please contact Robert Palmer on 0352 414045, or write to
P.O. Box 981 Geelong, 3220.

255

27th June 1998.

TO WHOM IT MAY CONCERN,

I have worked at the Cape Bridgewater Holiday Camp since January 1995.

Over the period of times I have experienced problems with both the phone and fax services.

Faxes often take an exceptionally long period of time to go through when being sent out. This problem was very common during 1995 and has been an intermittent problem until the present date.

Two major phone incidents occurred over the past few months. Both calls were incoming from other COT members as detailed below.

1/ The phone rang and I answered the call just as the answering machine cut in but message did not start.

I stopped the machine and all

b.e. 256A

I had was dial tone so I hung up.

As I placed phone into cradle it immediately commenced ringing so I picked it up as usual.

Graham Schorer was on the other end. so I asked him if he had redialed.

He stated that he had only rung once and the recorded message had played then I had picked up the phone.

2/ The phone rang and I answered the call again as the machine cut in but the message did not start.

Again I experienced dial tone so one again I hung up only to have the phone ring as soon as the handset hit the cradle.

Again I picked up the phone and Ann Garms was on the other end.

I asked her if she rang twice and she stated she received a busy tone and then I came on the line.

66.

256A

The above mentioned are only two examples of unusual occurrences.

There have been many over the past 3 yrs while I have been at the camp.

Using the phone is not a pleasure as I tend to be very careful when talking as I have no confidence that my conversations are private.

I no longer use the phone for any personal private use which involves confidentiality.

Yours sincerely

C. Ezard

CATHY EZARD

256A

Linda Johnson
59 Blair St
Portland Vic 3305
31-12-05

To Whom it May concern,

My husband & I worked as caretakers at Cape Bridgewater Holiday camp from 1997-2000 as mentioned in a previous letter my husband & I experienced problems with the telephone lines out there.

People were complaining that our phone was always engaged & that they could never get thru to us, but in actual fact we were not on the phone at all.

Whenever we rang out sometimes we experienced a crossed line, we were listening to other peoples private conversations & they ours.

The camp also experienced these problems also, people were trying to ring & book accomodation & school camps, and were unable to get thru because their end was always engaged. (the camp end)

This didn't just happen once or twice, it was always an ongoing problem & it really was irritating & annoying.

Thanking You.

L. Johnson.

256 B

A 2



25 August, 1998

**Telecommunications
Industry
Ombudsman**

**John Pinnock
Ombudsman**

TIO Ref: D/98/3


Mr Alan Smith
Cape Bridgewater Holiday Camp
RMB 4408
PORTLAND VIC 3305

Dear Mr Smith

I have considered the material which you have recently sent to the Deputy Ombudsman, regarding the non-receipt of documents by the Arbitrator. I would remind you however, of the completion of the arbitration in May, 1995 and confirm my repeated advice to you, which I have also provided to the Department of Communications, Information Economy and the Arts. I am unable to now consider these matters.

The only issues that I am considering, as the former Administrator of your Arbitration, are the alleged overcharging for your 1800 service and matters pertaining to your Gold Phone service, and whether they were considered in the final award. The Deputy Ombudsman has taken up these issues with the Arbitrator of your case, as I believe you have been informed.

Yours sincerely


**JOHN PINNOCK
OMBUDSMAN**

257

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

Telecommunications Industry Ombudsman Ltd ACN 057 634 787

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Fax Freecall 1800 630 614



210.0000
DAVID HAWKER MP
FEDERAL MEMBER FOR WANNON

16 October 1998

[Handwritten signature]
23/10

Mr John Pinnock
Telecommunications Industry Ombudsman
Box 18098
Collins Street East
MELBOURNE VIC 8003

Dear Mr Pinnock

Please find enclosed correspondence I have received from my constituent,
Mr Alan Smith of Cape Bridgewater Holiday Camp, Portland, 3305.

I would appreciate your assistance in resolving Mr Smith's complaint.

I look forward to receiving your advice in due course.

Yours sincerely

[Handwritten signature of David Hawker]
DAVID HAWKER, MP
Federal Member for Wannon

Enc

Ref: 10-12.doc/dh:mc

258

4 November, 1998

Mr Peter Bartlett
Partner, Minter Ellison Morris Fletcher
GPO Box 769G
MELBOURNE VIC 3000



Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

Dear Peter

MR ALAN SMITH - 1800 and GOLD PHONE ISSUES

I wrote to you on 26 February and 9 June 1998, about issues which Mr Smith continues to raise as disputed matters, which he claims were not addressed in his arbitration. You responded respectively on 23 March and 3 July, 1998, suggesting that, for both matters, it might be necessary to seek some clarification from the Arbitrator, Mr Gordon Hughes. This clarification was duly sought.

Mr Hughes responded as follows:

"I have had the benefit of reading Mr Bartlett's advice. He is correct in his conclusion that the issues now raised by Mr Smith have previously been addressed by the TIO and the Resource Unit. To the extent that any evidence was provided by me, either in writing or orally, it was considered. To the extent that the Resource Unit commented upon material provided to them, those comments were also considered."

Having made this point, I should emphasise that I consider it inappropriate for me to express a formal opinion. My appointment as arbitrator ceased when I handed down my award. Mr Smith is free to pursue any available legal remedy in the event that he has concerns about the award. To have me now explain my award to the claimant would inevitably set in motion a train of events which are as undesirable as they are predictable."

In the light of Mr Hughes' response, the Ombudsman has asked me to seek your advice as to whether you would therefore be of the opinion that both matters were, for all intents and purposes, addressed in the arbitration.

I shall be grateful for your advice, in due course.

Yours sincerely

WALLY ROTHWELL
DEPUTY OMBUDSMAN

259

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Telecommunications Industry Ombudsman Ltd

ACN 057 634 787

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Tel. Freecall 1800 062 058
Fax Freecall 1800 630 614

MINTER ELLISON + 613 9277 8797

10:28

10/11/98



Department of Communications, Information Technology and the Arts

Our Reference

FACSIMILE

To: JOHN PINNOCK
Phone number: 03 86008700
Facsimile number: 03 86008797

From: DIANNE SOUTHWELL
Phone number: 02 62711227
Facsimile number: 02 62711886
Date: 11/11/98
Number of pages: 12

GPO Box 2154 Canberra ACT 2601 Australia • Telephone (02) 6271 1000 • Facsimile (02) 6271 1901
• Email dca@dca.gov.au • Website <http://www.dca.gov.au>

Dear Mr Pinnock

MINREP NO 98110285

Could you please advise on the attached letter from Mr Alan Smith.

Could you also please advise on a likely time-frame for finalising Mr Smith's claim of overcharging on 1800 number.

A meeting has been proposed between Mr Smith and Senator Ian Campbell and your response will form the basis for the proposed meeting.

Thank you

Dianne

260



Department of
Communications
Information Technology
and the Arts

FACSIMILE

our reference

to: Telecommunications Industry Ombudsman	from: Mark Dunstone
fax: 1800-630-634	phone: (02) 6271 1848
phone:	fax: (02) 6271 1850
number of pages: 17	date: 29 January 1999

GPO Box 2154 Canberra ACT 2601 Australia • telephone 02 6271 1000 • facsimile 02 6271 1901
email dcita.mail@dcita.gov.au • website <http://www.dcita.gov.au>

Mr John Pinnock
Telecommunications Industry Ombudsman

COT CASES - ALAN SMITH

Following a Departmental restructuring I am now the Manager of Consumer and Pricing Section, replacing Ms O'Grady. I understand that my team has frequent contact with your office concerning various consumer complaints.

We have been referred correspondence from one of the COT cases - Mr Alan Smith who has written to the Treasurer. I understand he also sent you a copy.

Previous advice from your office concerning Mr Smith was to the effect that you were still considering whether or not you would investigate his claim of overcharging on his 1800 number.

I would be grateful if you could advise the status of the TIO's investigation into Mr Smith's claim of overcharging - I understand this matter has been before the TIO for some years.

Mark Dunstone

261



Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

10 February, 1999

Mr David Hawker MP
Federal Member for Wannon
190 Gray Street
HAMILTON 3300

Facsimile 03 5572 1141

Dear Mr Hawker

Mr Alan Smith

I refer to your letter of 11 December 1998 and apologise for the delay in replying.

You will be aware from previous correspondence that Mr Smith has made numerous and varied accusations about the conduct of his Arbitration, which was completed in May 1995, by the TIO, the Arbitrator and the Resource Unit which provided expert assistance to the Arbitrator.

His most recent complaint concerning the transmission of facsimiles is, in my opinion, without substance. First, there is no evidence that his facsimile service has been, at any time, intercepted by Telstra or anyone else. Second, with certain minor exceptions I can say that all documents relevant to his Arbitration were forwarded to Telstra and the Special Counsel.

More importantly documents supplied to the TIO were forwarded to the Arbitrator as required under the Fast Track Arbitration Procedure.

The only matter outstanding which the TIO is considering is whether the Arbitrator considered Mr Smith's claim for overcharging on his then 800 service when he made his Award. I shall be writing to Mr Smith on that matter in the next week.

Yours sincerely

JOHN PINNOCK
OMBUDSMAN

262

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ANU/pinnock/1058

Telecommunications Industry Ombudsman Ltd

ACN 057 634 787

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10 February, 1999

Telecommunications
Industry
Ombudsman

Mr Mark Dunstone
Department of Communications Information
Technology and the Arts
GPO Box 2154
CANBERRA 2601

John Pinnock
Ombudsman

Facsimile 02 6271 1901

Dear Mr Dunstone

Mr Alan Smith

I refer to your letter of 29 January 1999.

You would be aware from a perusal of departmental files that there has been extensive correspondence between the Department and the TIO concerning the COT Cases, including Mr Smith.

Mr Smith's most recent letter of 2 November 1998 is but one of many in a steady stream of complaints concerning the administration by the TIO of his Arbitration and the Award of the Arbitrator. Much of this correspondence contains allegations of impropriety on the part of the TIO, the Arbitrator and the Technical Resource Unit. I no longer have patience nor, I believe, the obligation to continue to respond to these repeated and unfounded complaints.

Mr Smith, however, raised issues in 1998 which I considered merited investigation, viz. whether the Arbitrator had, in his Award dealt with Mr Smith's claim that he had been overcharged on his 800 (now 1800) telephone service as well as complaints concerning his fax line. The TIO has carried out some preliminary, if protracted, investigation of the former claim and I will be writing to Mr Smith in the next week concerning this issue. In relation to the latter claim, Mr Smith wrote to me on 5 February 1999 requesting the return of all correspondence so that he could discuss the matter with the Commonwealth Ombudsman because, Mr Smith claimed, the TIO had not properly investigated the matters.

Yours sincerely



JOHN PINNOCK
OMBUDSMAN

263

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Att/plainan/1056

Telecommunications Industry Ombudsman Ltd

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Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

26 May, 1999


Mr Alan Smith
Cape Bridgewater Holiday Camp
Blowholes Road
RMB 4408
PORTLAND 3305

Dear Mr Smith

I refer to numerous letters addressed to the Chairman of the TIO Council, The Hon Tony Staley, and which I have forwarded to him.

The Chairman has asked me to advise you that Council will discuss the matters raised in your letters at its next meeting scheduled for 21 June 1999.

Yours sincerely


JOHN PINNOCK
OMBUDSMAN

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Fax Freecall 1800 630 614

My Telstra account for my fax line, below, also covers the time span during which I sent these faxes.

Account 776 7288 200

Issue Date 01 Mar 99

Page 4

Item **STD Calls - Itemised** *continued*

STD calls *continued*

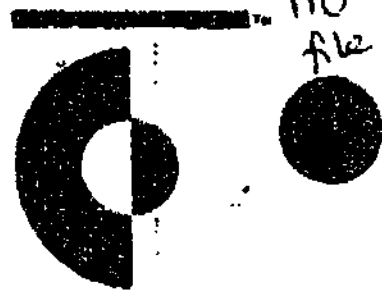
Item	Date	Time	Place	Number	Rate	Min:Sec	\$
	Telephone Service 03 5526 7285 <i>continued</i>						
247	21 Feb	06:15 pm	Melbourne	0398761853	Economy	1:17	0.33*
248	21 Feb	06:17 pm	Melbourne	0398761254	Economy	0:50	0.27*
245	21 Feb	06:39 pm	Colac	0352322449	Economy	1:08	0.30*
219	22 Feb	12:12 pm	Melbourne	0392877099	Day	8:40	2.55*
221	22 Feb	12:28 pm	Melbourne	0395266614	Day	2:34	0.86*
220	22 Feb	12:32 pm	Melbourne	0395266614	Day	0:07	0.18*
222	22 Feb	12:33 pm	Melbourne	0395266616	Day	9:30	2.78*
256	22 Feb	02:41 pm	Melbourne	0398761254	Afternoon	4:05	1.17*
271	22 Feb	03:40 pm	Warrnambool	0355616193	Afternoon	1:36	0.41*
273	22 Feb	04:31 pm	North Geelong	0352794444	Afternoon	0:55	0.37*
239	22 Feb	08:08 pm	Melbourne	0398761254	Economy	1:08	0.31*
194	22 Feb	09:12 pm	Warrnambool	0355614038	Economy	1:14	0.26*
207	24 Feb	07:42 pm	Melbourne	0395114336	Economy	17:22	2.55*
216	24 Feb	08:30 pm	Grovedale	0352414045	Economy	3:39	0.66*
264	24 Feb	08:34 pm	Melbourne	0395538030	Economy	34:05	3.00*
265	24 Feb	09:19 pm	Buderim	0754453198	Economy	14:03	2.10*
266	24 Feb	09:57 pm	Buderim	0754453198	Economy	1:09	0.31*
218	25 Feb	09:41 am	Melbourne	0392877099	Day	18:22	5.24*
217	25 Feb	10:00 am	Melbourne	0392877001	Day	2:13	0.76*
223	25 Feb	11:41 am	Grassmere	0355654227	Day	3:11	0.73*
224	25 Feb	11:58 am	Port Fairy	0355681057	Day	1:36	0.44*
196	25 Feb	12:26 pm	Melbourne	0392877099	Day	8:58	2.63*
263	25 Feb	01:07 pm	Melbourne	0392877099	Afternoon	1:05	0.42*
258	25 Feb	03:51 pm	Melbourne	0398761254	Afternoon	4:50	1.35*
259	25 Feb	03:56 pm	Melbourne	0398761853	Afternoon	1:02	0.41*
257	25 Feb	03:57 pm	Melbourne	0398761254	Afternoon	1:34	0.54*
231	25 Feb	06:48 pm	Melbourne	0392877001	Afternoon	0:52	0.37*
208	25 Feb	07:18 pm	Melbourne	0398761853	Economy	1:19	0.33*
195	25 Feb	08:39 am	Melbourne	0398761853	Day	0:57	0.41*
244	26 Feb	10:48 am	Melbourne	0398761254	Day	0:19	0.24*
243	26 Feb	10:55 am	Melbourne	0392877001	Day	0:47	0.37*
229	26 Feb	11:05 am	Melbourne	0392877099	Day	10:12	2.97*
228	26 Feb	11:20 am	Melbourne	0392877001	Day	1:57	0.69*
227	26 Feb	11:24 am	Canberra	0262711000	Day	0:10	0.20*
230	26 Feb	11:46 am	Melbourne	0392877099	Day	7:40	2.27*
197	26 Feb	01:04 pm	Melbourne	0392877099	Afternoon	7:55	2.13*
198	26 Feb	01:37 pm	Melbourne	0392877001	Afternoon	0:46	0.34*
227	28 Feb	03:38 pm	Melbourne	0392877099	Afternoon	0:35	0.30*
276	26 Feb	04:01 pm	Melbourne	0392877099	Afternoon	2:32	0.78*

SID : GOLDEN

Number L1 : 613 9287 7001
Number L2 :

Date : 26-02-99 14:14

Date/Time	Subscriber	Mode	Pages	Durat.	Status	Note
25-02 15:29	3266229	FINE	1	2'14"	Correct	L1
25-02 15:39	613395009446	NORMAL	1	0'27"	Correct	L1
25-02 16:45	+61 7 3257 1503	NORMAL	3	1'37"	Correct	L1
25-02 17:11	61 3 98287309	NORMAL	3	0'49"	Correct	L1
25-02 17:17	61 3 92190049	FINE	1	0'49"	Correct	L1
25-02 18:12	+61 7 3257 1503	NORMAL	3	1'44"	Correct	L1
25-02 18:46	055 267230	NORMAL	1	0'47"	Correct	L1
26-02 7:51	93281081	NORMAL	1	0'47"	Correct	L1
26-02 8:20	61 6 249 7829	NORMAL	1	0'21"	Correct	L1
26-02 9:01	61 3 96005838	NORMAL	2	0'40"	Correct	L1
26-02 10:21	61 3 96320875	NORMAL	11	5'24"	Correct	L1
26-02 10:30	61 3 9432 4716	NORMAL	1	0'37"	Correct	L1
26-02 10:40	61 3 96320875	NORMAL	12	5'41"	Correct	L1
26-02 10:59	055 267230 ✓	NORMAL	1	0'42"	Correct	L1
26-02 11:00	61 3 96320875	NORMAL	3	1'12"	Correct	L1
26-02 12:01		FINE	1	0'39"	Correct	L1
26-02 13:35	055 267230 ✓	NORMAL	1	0'41"	Correct	L1
26-02 14:12	+6132652556	NORMAL	3	0'54"	Correct	L1



2 June, 1999

The Hon. Tony Staley
Chairman of Council
Telecommunications Industry Ombudsman
PO Box 14
LANCEFIELD 3435

Telecommunications
Industry
Ombudsman

John Pincock
Ombudsman

Dear Tony

Mr Brian Purton-Smith

I realised after our discussion yesterday and after checking the file that this is not the first time Mr Purton-Smith has written to you about his claim.

For your information I enclose copies of:

- (i) letter from Mr Purton-Smith to you of 28 December 1996, attaching a letter to the Minister of 3 December 1996 and other attachments
- (ii) your letter to me of 30 January 1997
- (iii) my response to you of 13 February 1997

So far as any personal claim which Mr Purton-Smith may have, it appears that he has taken no steps at all to prosecute the matter since he last wrote to you.

Both before and at the time when the Enfield Peak Pty Ltd (Salome Party Hire) matter was settled, the former Deputy Ombudsman and I made it clear that the TIO could do little to assist him with his personal claim which I understand is, in effect, a personal injury claim for pain and suffering.

Both the Deputy Ombudsman and I were of the view that it was not a claim which was suitable to be submitted to the Arbitration process which Telstra had established.

I am even more strongly of that view today. In part my position has hardened because of the many problems and deficiencies in the Arbitration process. Secondly, my recollection is that in a judgement in 1998 concerning an Appeal brought against an Arbitrator's Award by one COT claimant, Mr Justice Hooper of the Victorian Supreme Court cast doubt on whether the Arbitrator had any power to consider a 'pain and suffering' claim under the Arbitration procedure.

266

In my opinion, the only avenue open to Mr Purton-Smith to pursue his claim is through litigation.

I also enclose copies of a letter dated 21 April 1999 from Mr Purton-Smith and of my reply.

Yours sincerely



JOHN PINNOCK
OMBUDSMAN

28 SEP 1999

ALAN SMITH

Cape Bridgewater Holiday Camp
Blowholes Road, RMB 4408
Portland, 3305, Vic, Aust.
Phone: 03 55 267 267
Fax: 03 55 267 265

21/9/99

LETTER TWO

Mr John Pinnock
TIO
Melbourne

Dear Mr Pinnock,

On page 212 of my manuscript *'Ring for Justice'* you will find a copy of my Telstra account of 1 March 99. Three faxes transmissions are underlined on this account. One of these underlined faxes indicates that I successfully sent a fax to Graham Schorer at 03 9287 7001 on 26 February at 11.20 am. This fax took 1 minute and 57 seconds to transmit and my account was charged 69 cents.

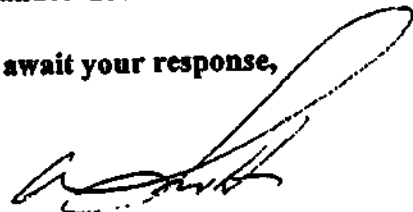
According to Mr Schorer's fax journal printout, which is reproduced on the previous page of my book, it can clearly be seen however that he only received faxes from my number (055 267 230) at 10:53 and 13:35 on 26 February — he did not receive any fax at all at 11.20 am.

Since the problems with my fax line were not addressed in my arbitration procedure I would be grateful if you would now ask Telstra the following questions:

- 1 How can they charge me for a fax delivery to Mr Schorer's office when it did not arrive there?
- 2 Since, according to my Telstra account, I dialled the correct number when I sent this fax, and since it clearly did not go to that number, where did this fax go to?

If Telstra refuses to answer these questions I believe you should remind them that the rules of my arbitration quite clearly state that the assessor could not hand down an award until my phone problems had been rectified. Evidence which I have provided to your office between early 1994 and August 1998 clearly demonstrates that the faults related to my fax and 1800 lines continued after my arbitration award had been handed down.

I await your response,



Alan Smith

copies to:

The Board of the TIO's office

Melbourne

Mr David Smith

Corrs Chambers Westgarth, Melbourne.



19 October, 1999

Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

Mr Alan Smith
Cape Bridgewater Holiday Camp
Blowholes Road RMB 4408
PORTLAND 3305


Dear Mr Smith

I refer to your letters of 21 September 1999 (Letter One and Letter Two).

The first of these letters is clearly defamatory of the former Telecommunications Industry Ombudsman, Mr Warwick Smith. The assertion that he 'was prepared to go to enormous lengths to disadvantage [you]' is outrageous.

I have reviewed the resources which the TIO has devoted to dealing with your extra ordinary number of complaints and letters over the past four years and advise you that I do not propose to take any further action in relation to these matters.

Yours sincerely



JOHN PINNOCK
OMBUSMAN

267

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Fax Freecall 1800 630 614
TTY Freecall 1800 675 692

THE OCCASIONAL OFFICE

INFORMATION RE PHONE MESSAGE RECEIVED 24/10/99

When I checked my answering machine on the morning of Sunday 24th October there was one message from Alan Smith. This message was recorded as arriving in the early hours of the morning (I think it was about 5.30 am but I didn't pay attention since the actual time was not important to me). The message was quite clear and finally Alan said goodbye and the machine recorded a click which I assume was Alan hanging up the receiver at his end.

Immediately following this there were two short, muted rings on the answering tape, as if the phone was ringing at Alan's end, followed by Alan's voice saying something like 'Cape Bridgewater Holiday Camp, good morning.'

There was another click as if he had hung up again, followed by two more short, muted rings before my answering machine recorded an end-of-message tone.

Unfortunately I didn't keep the machine tape.

I, CATHERINE JOAN EZARD

of RMB 4408, PORTLAND

in the State of Victoria

do solemnly and

sincerely declare

THAT On Sunday morning, 24th October 1999, at approximately 5.30am. Alan Smith rang his secretarial service (The Occasional Office).

After leaving a message on the answering machine then he hung up. Just a fraction of a second after the phone was replaced in the cradle the phone rang again, giving 2 1/2 times the normal ring. Alan answered the call saying "Cape Brodgewater Holiday Camp - Good Morning". The Line was dead. As he got, ~~no response~~..... ~~no response~~ he again placed the phone back into the cradle and a short ting was heard then silence.

This type of situation continues to plague our business. Not only on our home phone as the above incident but also on the office phone.

Mr John Pinnock (Telecommunications Industry Ombudsman) has refused to address a number of Alan's complaints.

Living with this type of no win situation has left both Alan + I exhausted and unsure if we can trust our business future.

After a lot of soul searching and due to constant worry and stress Alan has finally made the decision to sell the business.

The papers are to be signed with the selling agent on Wednesday 24th Oct 1999.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.

DECLARED at Portland in the State of Victoria this 26th day of October. One thousand nine hundred 99

C. Ezard

Before me

[Signature]
OK 29143

PORTLAND POLICE STATION

Robert C. Nix



Telecommunications
Industry
Ombudsman

The Hon. Tony Staley
Chairman of the Council

28 October 1999

Mr Alan Smith
Cape Bridgewater Holiday Camp
Blowholes Road RMB 4408
PORTLAND 3305

Dear Mr Smith

I refer to your letter of 5 August 1999 as well as to recent letters addressed to the Ombudsman and the TIO's solicitors.

You continue to canvass in some detail matters which were the subject of the Arbitration completed by an Award in your favour in May 1995.

The Ombudsman has repeatedly advised you in the past of your rights of appeal in relation to the Award of the Arbitrator, advice which you have not followed.

It is not appropriate for either the Ombudsman or I, as Chairman of Council, to reconsider the decision of the Arbitrator.

Having regard to the decision of the Arbitrator, the nature of your continuing complaints, the huge investment of resources of the TIO over the past four years, I have concluded that the matter demands finality and do not propose to answer further letters from you on this subject.

Yours sincerely

TONY STALEY
CHAIRMAN TIO COUNCIL

269

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CoW1255

Telecommunications Industry Ombudsman Ltd

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 Theses



Desktop
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 Manuscripts
 Reports
 Manuals

30th January, 2000

TO WHOM IT MAY CONCERN:

On the 28th December, 1999 I was contacted by Alan Smith from Cape Bridgewater Holiday Camp re doing some computer work for him. I run a small business engaged in doing a variety of computer jobs, ie. word processing, etc. Alan rang and we organised for him to fax the work through. One page and a small portion of the next came through and then the line disconnected. Alan tried numerous times to get the fax through, but to no avail and he eventually had to make other arrangements for the work to be done nearer to him.

On the 5th January 2000 Alan again contacted me regarding doing some work for him. He tried so many times over a period of about 3½ hours and finally the work came through. We probably spoke about twice during this time about the failure to get through, the other times were tries to fax. On the 6th of January Alan again tried to fax the remainder of the work through and we managed to connect a lot quicker, although it was still about half a dozen times trying beforehand.

When the work was finished, I managed to fax it back to him, although I had to make three or four tries as several pages would go through and then the connection would cut.

The following day, 7th January, Alan faxed through a few changes, but this time they came through after only a couple of tries.

It has proved to be very hard to contact Alan at Cape Bridgewater Holiday Camp via fax and indeed it has cost me work by not being able to establish a fax connection. I have not experienced this phenomenon before on such a regular basis.

Yours faithfully,

MARGARET VAN RUN.

28th December 1999

Letter from Margaret Van Run, from Dial A Secretary service in Warrnambool on the following page confirms she alerted me to the fact that not all my faxes on this particular day did not connect through to her office facsimile machine 0355611027. Why then do my Telstra accounts show that ALL these transmissions were all successful?

5th January 2000

Margaret Van Run, again writes about the continuing problems when receiving faxes on this particular day where 17 successful calls are charged by Telstra as affective (re Telstra fax account bottom of page). The extract of my fax journal for the 5th January 2000, is copied directly below which confirms that only two transactions were actually transmitted and sent to Ms Van Run from the 18 charged calls shown on my account. This is the same type of situation as described in Telstra's B004 report 23rd May 1994 faxes not being received by the arbitrator where their own evidence sworn under oath confirms they charged my business for FIVE non-transmitted faxes.

Line	Status	Time	Type	Number	Date	Time	Account
19	OK	00:02'12	RCU	61 3 96140911	04-01	14:45	0502400C4500
407	OK	00:09'35	XMT T	0355611027	05-01	18:41	0004400C0900
	OK	00:01'02	XMT T	55611027	05-01	20:49	0204400C0900
22	S-OK	00:00'03	XMT T	55712044	05-01	20:59	A00400000000
23	S-OK	00:00'04	XMT T	55615071	05-01	21:00	A00400000000
24	OK	00:00'42	XMT T	95114335	06-01	06:01	040440AC2900
25	OK	00:00'40	XMT T	96140911	06-01	06:05	040440AC7400
26	OK	00:00'42	XMT T	96140911	06-01	06:17	040440AC2400

STD calls continued

	Date	Time	Place	Number	Rate	Min:Sec	\$
	Telephone Service 03 5526 7285			continued			
45	05 Jan	05:33 pm	Melbourne	0398761254	Day	2:00	0.65
44	05 Jan	05:37 pm	Warrnambool	0355611027	Day	1:16	0.4
109	05 Jan	06:40 pm	Warrnambool	0355611027	Day	0:45	0.25
109	05 Jan	06:41 pm	Warrnambool	0355611027	Day	9:40	1.72
113	05 Jan	06:52 pm	Warrnambool	0355611027	Day	0:43	0.28
110	05 Jan	06:59 pm	Warrnambool	0355611027	Multi Rate	0:44	0.25
107	05 Jan	07:01 pm	Warrnambool	0355611027	Economy	0:22	0.20
111	05 Jan	07:03 pm	Warrnambool	0355611027	Economy	0:30	0.22
112	05 Jan	07:04 pm	Warrnambool	0355611027	Economy	1:19	0.29
114	05 Jan	07:06 pm	Warrnambool	0355611027	Economy	0:32	0.22
89	05 Jan	08:49 pm	Warrnambool	0355611027	Economy	1:20	0.29
84	05 Jan	08:51 pm	Warrnambool	0355611027	Economy	0:23	0.21
86	05 Jan	08:53 pm	Warrnambool	0355611027	Economy	0:26	0.21
85	05 Jan	08:56 pm	Warrnambool	0355611027	Economy	0:36	0.22
88	05 Jan	08:58 pm	Warrnambool	0355611027	Economy	0:27	0.21
93	05 Jan	08:59 pm	Hamilton	0355712044	Economy	0:05	0.17
87	05 Jan	08:59 pm	Warrnambool	0355611027	Economy	0:14	0.19
92	05 Jan	09:00 pm	Warrnambool	0355615071	Economy	0:05	0.18
90	05 Jan	09:00 pm	Warrnambool	0355611027	Economy	2:42	0.41
91	05 Jan	09:06 pm	Warrnambool	0355611027	Economy	0:44	0.24

270

ALAN SMITH

Cyber Justice Pty Ltd
Level 7, 470 Collins Street
Melbourne 3305
Victoria, Aust.
Phone: 03 9614 0800
Fax: 03 9614 0811

12 February, 2000

Mr Ray Bell
Research Product Specialist
Commercial & Consumer Division
Telstra Corporation
242 Exhibition St
Melbourne 3000

TELECOMMUNICATIONS INDUSTRY OMBUDSMAN
FAST TRACK ARBITRATION PROCEDURE
TELSTRA CORPORATION
Vs
CAPE BRIDGEWATER HOLIDAY CAMP (ALAN SMITH)

Dear Mr Bell,

I am writing with regard to a technical report which you signed. This report is dated 20 June 1994 and titled '*TF200 Customer Complaint*'. Page 29 of this report clearly indicates that you were fully aware that this report was to be used in Telstra's defence of my claim that the Telstra telecommunications network into Cape Bridgewater was not up to world standard.

Your report acknowledges that my TF200 phone was collected from my office by a Telstra employee on 27 April, 1994 but makes no reference to the fact that, according to Telstra's own archives, I first complained of this same 'lock up' fault as far back as 13 August, 1993, 270 days before the phone was collected for testing.

Your report also notes that, although the phone was collected on 27 April 1994, your laboratory technicians did not actually begin to test the phone until 10 May 1994, fifteen days after the phone left my office. This indicates that you were aware of the length of time the phone took to reach the laboratory, even if you were perhaps not aware of the 270 days which had elapsed between my first complaint to Telstra and the date that the phone was finally collected. According to your report, the technicians who tested the phone determined that a wet and tacky substance, later diagnosed as beer, caused my phone to lock up.

On 28 November, 1995, six months after the arbitrator handed down his award on 11 May 1995, I received a copy of your laboratory working notes. FOI document K64535, part of your working notes, confirms that testing at the Telstra laboratory had proved that beer dried in one to two days. Since you clearly knew that the phone had left my premises fifteen days before testing began, how could you still state:

"If the customer had reported the liquid spillage when it occurred the telephone would have been replaced under standard maintenance procedures with no resultant loss of business."

Your fraudulent report resulted in the halting of the legal arbitration enquiry into why this lock up fault had continued for so long.

Telstra submitted this fraudulent TF200 report on 12 December 1994, in support of the quality of the Telstra network into Cape Bridgewater. Since that time I have been unable to have any investigation carried out into the real cause of the problems I experienced with the line my TF200 phone was originally connected to (55 267 230), even though I continued to register the same complaints, in writing, with the appropriate authorities for some time after my arbitration of 1994/5 was deemed to have been completed. It seems that your fraudulent report was enough to convince both the arbitrator and the TIO that no further investigation was necessary.

The enclosed FOI document, K01489, dated 29 October 1993, further proves that Telstra was aware of this lock up fault for many months before your report was written. It seems that you were not informed that my TF200 phone was connected to my Mitsubishi fax machine, a fact which can be confirmed by my local technician, Mr Ross Anderson. It also seems you were not informed that I had carried out tests with two other TF200 telephones on the same phone line (55 267 230) with Mr Cliff Matherson, an Austel technical engineer, on 26 April, 1994, the day before the phone was taken away for laboratory investigation. Both these phones suffered the same lock up fault. Mr Matherson suggested at the time that I contact Mr Peter Gamble, a Telstra engineer, and have him investigate the problem. Mr Matherson stated that the fault was certainly in the network or the exchange and not in the two different TF200 phones.

FOI documents K00940 and K00941, also attached, show that, on 26 April, 1994, Mr Gamble had attributed the fault to heat at the exchange at Cape Bridgewater. Mr Gamble made no mention of beer at all.

According to Telstra's own archival material, Mr Anderson, the local technician, had also concluded that heat at the exchange was creating problems. He suggested the installation of a fan at the unmanned exchange at Cape Bridgewater.

It is interesting to note that in another COT arbitration the same Telstra laboratory found that food in a TF200 phone was causing the faults complained of by Mr Ralph Bova, of the Highett Pizza Parlour in Victoria.

You now have all the true facts regarding this fault and are aware of the resultant effect of your fraudulent report on my business and my welfare over these past five years. I suggest that this would be a good time to contact your union for advice regarding your position. It would also be wise to contact the law enforcement agencies who will receive a copy of this letter and inform them who authorised you, or pressured you, into compiling a technical report which you knew was not true and correct.

Many years ago, in the Court of Tiflis of then Empire of Russia, the following legal precedent was set:

“... that no man can take advantage of his own wrong, and that it is a principle of Law that no action can be maintained on a judgement of a court either in this country or in any other, which has been obtained by fraud of the person seeking to enforce it. That the defence is good ...”

As you know, Mr Bell, Telstra's defence in my arbitration was built on fraud.

The longer you cover up your crime with your silence the worse the effect it will have on any outcome if this matter ever gets to court. You do have a choice. It is up to you.

Sincerely,

Alan Smith
Cape Bridgewater Holiday Camp
Portland 3305
Phone 03 55 267 267

Copies to:

Mr Bob Mansfield, Chairman of the Board of The Telstra Corporation, Melbourne
The Hon Daryl Williams, Federal Attorney General, Parliament House, Canberra
Senior Detective Rod Keuris, Major Fraud Group, Victoria Police, Melbourne
Mr Mervyn A Keehn, Regional Director, National Crime Authority, Melbourne
Mr John Wynack, Senior Investigation Officer, Commonwealth Ombudsman's Office
Ms Roslyn Kellcher, Australian Communications Authority, Melbourne
John Tuczynski, WWW.Cyberjustice.com.au, web site coordinator
National Press Gallery, Parliament House, Canberra

ALAN SMITH

Cape Bridgewater Holiday Camp
Blowholes Road, RMB 4408
Portland, 3305, Vic, Aust.
Phone: 03 55 267 267
Fax: 03 55 267 265

9 May 2000

ALAN SMITH, CASUALTY OF TELSTRA
FAST TRACK ARBITRATION PROCEDURE: 1993 /1994 / 1995

Mr Bob Mansfield, Chairman of the Board of the Telstra Corporation, Melbourne
The Hon. Daryl Williams, Federal Attorney General, Parliament House, Canberra
Senior Detective Rod Keuris, Major Fraud Group, Victoria Police, Melbourne
Mr John Wynack, Senior Investigation Officer, Commonwealth Ombudsman's Office
Ms Roslyn Kellcher, Australian Communications Authority, Melbourne.

Dear Madam and Sirs,

In relation to the enclosed copy of my letter of today's date to Mr John Pinnock, TIO, and the attachments to that letter, I would be grateful if you would try to imagine what you would have done if you had the misfortune to find yourself in my shoes;

- a) with little understanding of the legal system;
- b) involved in an arbitration process with a mammoth corporation (Telstra);
- c) at the mercy of an arbitrator and an ombudsman who advised you that they would address your ongoing phone and fax faults

and then, years after the so-called 'completion' of your arbitration, to find that, after reluctantly agreeing to a new set of arbitration rules (17/2/94):

- a) These rules were not drawn up by the President of the Australian Institute of Arbitrators (Mr Sheldon) and the arbitrator (Dr Hughes) as you had been advised but were in fact drawn up by Telstra's lawyers, Freehill Hollingdale & Page.
- b) Telstra, Telstra's lawyers, the arbitrator and the TIO held a secret meeting in relation to the drawing up of these rules, without your involvement or knowledge, in clear contravention of the rules of the arbitration (refer FOI documents M33445 and 6) and changed the rules again so that, when you actually signed, you were not signing the rules you believed you were signing.
- c) A laboratory report (regarding 'wet and sticky beer residue' which was purported to be inside your telephone) was fraudulent.
- d) The TIO had written to the new President of the Australian Institute of arbitrators stating that you had phoned the arbitrator's wife at 2 am, knowing that this was not correct.
- e) The technical unit attached to the arbitration were stopped from addressing allegations of incorrect charging on phone accounts.
- f) The arbitrator removed the technical unit's comments on the incorrect charging issue from their report.

I can't begin to imagine what each of you might have done in these circumstances but I can tell you what I did: since the TIO's office had been appointed to administer my arbitration, when I uncovered the secret meeting mentioned in point 2 above I asked the TIO why I was not notified of this illegal secret meeting. Mr Pinnock has never replied.

272

Over the course of my arbitration I had already:

- a) Provided the arbitrator with volumes of claim documents in support of my claims of incorrect charging on my service lines – incorrect charging that had continued for more than three and a half years.
- b) Provided evidence at a five-hour oral hearing on 11/10/94 where, using Telstra's own data, I proved the existence of this incorrect charging.
- c) Provided a video, again using Telstra's own documents, proving that my phone calls had been diverted.

In further support of my allegations regarding problems with my fax line, I enclose three documents (one a statutory declaration) from business associates, together with and an FOI document, numbered K01489. These documents:

- a) Detail the problems encountered by my associates when I attempted to send faxes to them, until Telstra disconnected my phone/fax line in August of 1998.
- b) Clearly demonstrate that the writers had experienced problems with my fax line over an extended time.
- c) Show that the same problems were occurring as far back as 29 October 1993.
- d) Prove that these problems continued to occur, after the 'completion' of my arbitration, until at least July of 1998.

Even with all this evidence, even with my question to the TIO about the illegal secret meeting, even though I provided documented evidence to support all the allegations I submitted to my arbitration, still the incorrect charging, the illegal call diversion and the phone bugging have never been addressed according to the rules set out in the arbitration.

This debacle has been dragging on for years now and it continues to drag on. As recently as just six weeks ago, on 28 March this year, a Mr Knight from Telstra phoned me looking for information about lost faxes. As you can see from the attachments to Mr Pinnock's letter, James Cameron informed me as late as February last year that Mr Pinnock agreed that my phone and fax line problems needed to be investigated. Why then has nothing been done? Why have my fax and gold-phone lines remained disconnected?

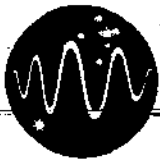
Although I have provided irrefutable evidence regarding the incorrect charging issues, it appears that Telstra, John Pinnock and others have joined forces in an attempt to hide this evidence. I would be most grateful if you could see your way clear to assist me in some way; perhaps you could suggest where in Australia I can go to have these valid complaints correctly investigated by an impartial assessor or ombudsman. Surely there must be some people within the Australian Government who have not lost their ethics and moral values?

I look forward to receiving your reply to my questions (and please do not suggest that I contact Mr Pinnock).

Sincerely,

Alan Smith

272



Our Ref: Y2000/15

Mr Alan Smith
Cape Bridgewater Holiday Camp
Blowholes Road, RMB 4408
Portland Vic 3305

Dear Mr Smith

RE: FAST TRACK ARBITRATION AND RELATED MATTERS

I refer to your letter of 9 May 2000, in which you raise yet again a number of concerns relative to your Fast Track Arbitration Procedure and subsequent events.

You raised similar issues in a letter to the Australian Communications Authority (ACA) dated 26 January 2000. In his response to that letter dated 15 February 2000, Neill Whitehead indicated the ACA's position with respect to such issues.

This position has not changed, and I have nothing further to add save to emphasise that it is not part of the ACA's role to pursue these matters and that it does not intend doing so.

Yours sincerely

A handwritten signature in cursive script that reads "F. Nowlan".

Frank Nowlan
Manager
Codes and Consumer Safeguards

13 June 2000

ALAN SMITH

Cape Bridgewater Holiday Camp
Blowholes Road, RMB 4408
Portland, 3305, Vic, Aust.
Phone: 03 55 267 267
Fax: 03 55 267 265

David Hawker MHR
190 Gray St
Hamilton 3300

29th October, 2000

ATTENTION MEGAN CAMPBELL

Dear Megan,

I wonder if, like many other Australians, you really understand the depth of corruption and deceit, which exists within the Telstra Corporation? I suspect most people not only have no comprehension of the extent of this corruption but they also have no idea how long this has been going on – since before the old PMG split into Australia Post and Telecom.

In our phone conversation of 27th October, 2000, you suggested that some of the matters I was raising would be best dealt with by the Australian Federal Police but I have already been down this track, and it only led to much frustration. During the Federal Police (COT) Inquiry in 1994/95, Federal Police investigators visited my business on three separate occasions and I provided them with conclusive evidence, which I had collected from Telstra's own archives. This evidence clearly demonstrated that Telstra:

1. Was aware of the names of many of my business contacts
2. Knew the name of a business I had written to as part of a tender for work
3. Identified an interstate caller to my business who usually rang from one suburb in South Australia, when he phoned from a totally different location on one occasion.
4. Knew, weeks in advance, of periods I planned to be away from my business.

Telstra could only have come by this information by listening to my private phone conversations or by tampering with my mail.

In support of these allegations of phone taping I have enclosed two documents:

- A. The letter dated 10 February, 1994, from Mr John MacMahon of Austel to Mr Steve Black of Telstra confirms that Telstra provided Austel with nine audio tapes of COT members' telephone conversations and,
- B. The letter dated 17 June, 1997, from International Detective Services confirms that Telstra authorised illegal surveillance of another COT member, Mr Ken Ivory.

In relation to problems with my mail, I enclose a copy of a letter recently sent to me from the Portland Post Office, and dated October 28, 2000. This letter confirms that overnight mail that I had posted had not arrived at its intended destination five days later. This letter will be discussed in more detail on the following page.

274

During the aforementioned Federal Police Investigation into my matters, they spoke with a witness who later confirmed her statement with a statutory declaration. This declaration stated that the witness had acted as a courier on my behalf to collect mail from a location in Ballarat, Victoria. On two separate occasions, after confirming by telephone that the mail was waiting for collection, she arrived at the location to find that someone else had already collected it.

On a number of occasions during my arbitration with Telstra in 1994/95, I confirmed with the arbitrator's secretary that arbitration claim material which I faxed to the arbitrator's office never arrived, even though my fax journal and telephone accounts register the documents as having been faxed to the correct number. Documents received from Telstra after my arbitration confirm that some forty-three sets of arbitration claim material, which appear on my telephone accounts as having left my office via fax, were never received by Telstra's arbitration defence unit. This means that Telstra did not have to defend any of the claims contained in those forty-three sets of documents.

Documentation provided to Mr John Pinnock, TIO (administrator to my arbitration) confirm that my arbitrator did not address a number of my claims as he should have, according to the rules of the arbitration. I can only now assume, in the light of all this new information regarding missing faxes, that either:

- i) The arbitrator breached the rules because he was acting in concert with the defence, or
- ii) He did not receive some/many of the documents I faxed to him and therefore did not have enough information to make a correct judgement.

I believe the attached letter from the Portland Post Office (as referred to on the previous page) is an indication that other documents mailed during my arbitration may also have 'gone missing'. I am particularly concerned about two bound volumes of indexed claim documents which I sent by mail to my arbitrator's office some time in February or March of 1995. These volumes contained copies of my telephone accounts from Telstra, compared them to some of Telstra's own data and showed that the data did not match the accounts. These two volumes so clearly demonstrated that I had been incorrectly billed over a very long period that my arbitrator would have had to have ruled against Telstra on these billing issues but, as can be seen from his written findings, he made NO written findings concerning these volumes. Surely this indicates that he did not receive them through the mail.

Many of the people I deal with on a regular basis have received overnight mail late: the Australian Tax Office; my accountant, Derek Ryan and my secretarial service, The Occasional Office. Like the incident documented by the Portland Post Office, on one particular occasion Derek Ryan received overnight mail four days after it was posted. These three businesses all have one thing in common: the documents in the mail were all related to matters involving my dispute with Telstra. The documents referred to in the enclosed letter, which were sent to my solicitor, William Hunt, were also to do with this same dispute.

I have evidence that shows that John Pinnock has acted in a biased manner towards me on a number of occasions, even to the extent of fabricating incidents that never occurred in a desperate attempt to support issues he knows to be incorrect. Even so, he remains as ombudsman. Since his office acted as administrator to my arbitration, they had a duty of care to correctly respond to persons who questioned them. His office also had a duty of care to confirm that his own investigations had shown that my arbitrator had collaborated with Telstra on a number of occasions, thereby breaching the law.

274

Before my arbitrator brought down his 'award' I notified him of a number of instances where Telstra did not provide me with discovery documents under FOI, as per the agreed arbitration procedure. I explained to the arbitrator that this was severely hindering the preparation of my evidence to support my letter of claim. No action was taken in response to this complaint. Two years after my 'award' had been handed down, the Commonwealth Ombudsman's Office found that Telstra had been defective in the administration of these discovery documents during my arbitration. Records show that, the day before the arbitrator was to hand down this 'award', I received a number of arbitration discovery documents – too late to submit in support of my claim.

Mr Pinnock further failed to correctly inform a number of people that his office had wrongly advised me that I only had TEN DAYS to appeal the arbitrator's 'award'. Mr Graham Scorer, Spokesperson for COT, and others, can confirm this fact.

Further discovery documents arrived by courier at my office on 23rd May, 1995. These documents confirmed that Telstra knowingly misled my arbitrator during my arbitration, by unlawfully using test results as part of their defence when they knew those test results were impracticable.

Senator Richard Alston and the Major Fraud Group of the Victoria Police have been provided with conclusive evidence that, during the COT arbitrations, Telstra altered documents to suit their own defence to the detriment of the claimants.

Since you have mentioned that you believe I should contact the Australian Federal Police regarding my complaints I am prepared to provide David Hawker, in confidence, with the name of an ex-Australian Federal Police Investigator who visited Cape Bridgewater during the Federal Police investigation into my claims and who has attested that, had the Federal Police had the backing they needed at the time, charges would have been laid against a number of senior Telstra officials.

Mr Hawker has read a copy of my book "*Ring for Justice*" and I am sure he will be interested to know that I am currently collecting more information, which will be included in a revised edition of this manuscript. People who are now reading the draft of this revised edition are expressing concern that the present Liberal Government is protecting Telstra to the detriment of every-day Australians like myself.

I am not in the least angry with you, Megan, I just believe that all this indicates clearly that it is not me that is misleading David Hawker, it is the TIO's office.

Sincerely,

Alan Smith

274

Alan Smith
Seal Cove Guest House
RMB 4409
Cape Bridgewater
Portland, 3305
Phone: 03 55 267 170

19 December 2000

Senator The Hon. Brett Mason
Senator for Queensland

Senator The Hon. Bill Heffernan
Senator for New South Wales

Dear Sirs,

The attached letter and attachments, addressed to David Hawker MP, detail situations that some members of COT have experienced. It isn't until three or four of us get together to discuss our concerns regarding issues related to Telstra and matters of privacy that we realise how serious this situation actually is. We discover that we all share similar stories of:

1. Mail either lost completely or having been opened by persons unknown before delivery
2. Phone interceptions
3. Documents vanishing from our premises
4. Telstra FOI records which show that Telstra has carried out, or caused to be carried out, surveillance of our premises
5. The Telecommunications Industry Ombudsman's office's reluctance to investigate our valid claims against Telstra
6. And other strange and unexplained events.

In March 1994 I provided Senior Detective Geoff Penrose of the Australian Federal Police with a copy of a letter from a lady in Queensland who, earlier in 1994, had predicted that Telecom's Protective Services would continue to discriminate against me as retribution for my part in initiating COT. Both in conversation and in this letter she named a number of situations that she believed would continue to plague my business and my personal wellbeing. The events noted above closely fit her description.

Late in 2000 the Federal Police sent me transcripts of our various meetings and other relevant Telstra FOI documents which proved that these events had, indeed, occurred. My copy of this letter from Queensland was not included.

COT has also been informed, by a senior Australian Federal Police officer, that Doug Campbell, Telecom Group General Manager, should have been jailed for his involvement in these invasion of privacy. David Hawker MP and Senator Alston will confirm that I provided them with information that confirmed that it was also Doug Campbell who issued orders to have the Coopers & Lybrand COT report changed to better support Telecom's position. I find it alarming to now learn that Doug Campbell is in charge of fixing the problems in Telstra's rural network – the very same rural network that Telecom/Telstra stated, in a signed Statutory Declaration, was up to world standard.

275

As a result of my continued complaints, both to Telecom and to Austel, regarding the locking-up problems I was experiencing on my phone/fax line both before and during the early part of my arbitration, Telecom submitted a twenty-nine page defence document stating that a telephone collected from my office on 28th April 1994, was found to contain a 'wet and sticky' substance inside the phone's casing. According to this Telecom laboratory report, this 'wet and sticky' substance was beer and this was the only cause of the locking-up faults. This report was then accepted into arbitration and used by the arbitrator to arrive at his decision that some of the problems I complained of were caused by my own equipment. Since then I have received conclusive reports, from both Germany and the United States, which confirm that beer does not become sticky over time, as Telecom's TF200 Touch phone report asserts.

As I have previously explained to both yourself and Senator Alston, as a result of the arbitrator accepting this inaccurate report as factual evidence, the technical resource unit did not investigate these continuing lock-up faults, even though documents now confirm that the faults continued for at least four years after my arbitrator handed down his award.

When is a senior representative of our Government going to bring together those COT members who were not settled by the Senate Working Party, and listen to our stories? There are at least six COT members who are, like myself, willing to take polygraph tests to confirm the validity of our information, in the hope that we can finally begin rebuilding our lives.

I look forward to your explanation of what the Government intends to do regarding these matters.

Sincerely,

Alan Smith

275

ALAN SMITH
Cape Bridgewater Holiday Camp
Blowholes Road, RMB 4408
Portland, 3305, Vic, Aust.
Phone: 03 55 267 267
Fax: 03 55 267 265

11 January, 2001

Mr David Hawker MP
Federal Member for Wannan
190 Grey St
Hamilton
3300

Dear Mr Hawker,

Thank you for forwarding a copy of a Telstra letter dated 22nd December.

With reference to this particular letter, may I remind you that I have previously forwarded to your office, and to Senator Richard Alston's office, evidence which confirms that, during the TIO's own investigations into the disconnection of my gold phone by Telstra, the TIO's office sought Telstra's advice on this matter over a number of months. Since these requests, through the TIO's office, are on official record, how can Mr Thompson of Telstra now state (in paragraph 2 of the abovementioned letter):

'... initial investigation has been unable to discover a request from Mr Smith to connect this service.'

Further, Telstra wrote to Senator Alston's office in 1997, and again in 1998, confirming that Telstra would address the billing issues that continued past the 'completion' of my Fast Track Arbitration Procedure and that Telstra would visit my business to investigate these billing issues. Phil Corless and Lyn Chisholm (both from the same department as David Thomson) did subsequently visit my business early in 1998 and were both provided with evidence confirming that Telstra had, in fact, billed me incorrectly on the following three of my business phone lines:

1. Facsimile service 55 267 230
2. Free call 008 / 1800 service
3. Goldphone service 55 267 260

While Mr Corless and Ms Chisholm were attending my business at this time, and in the presence of an independent witness (an ex bank manager from Portland), I was advised that Telstra would seek further clarification of the billing issues from the TIO's office.

Mr Ted Benjamin, from the same department as Mr Thomson, was in charge of the release of discovery documents which I was seeking from Telstra under FOI. Even though Mr Benjamin was fully aware that Telstra had withheld a number of discovery documents during my arbitration and that those documents would have enabled me to submit further evidence showing that Telstra had incorrectly billed

my office over a number of years, particularly on this same Goldphone service, he still authorised the disconnection of my Goldphone in December 1995.

The following information demonstrates one example of this incorrect billing:

In one instance, during my arbitration, Telstra acknowledged in their defence documents that there was a four-day fault at the Cape Bridgewater Exchange. FOI documents confirm however that Telstra knew that this fault was occurring in system 1 for at least seventy days and that the service was non-operational during at least some of this time. Even so Telstra applied the service and equipment charge of \$142.50 for this whole three month period.

Other evidence confirms that Telstra were aware of numerous occasions of system 1 malfunctioning but I have never been reimbursed for charges made on my account at those times; so incorrect billing of calls which were not connected is not the only issue, there is also the issue of incorrect service and equipment charges.

It has now been proven, and is on record, that this same Mr Benjamin who authorised the disconnection of my Gold phone lied under oath during his presentation to the Supreme Court of Victoria as a witness for Telstra in the Ann Garms vs Telstra, COT Case issue. Why then have Telstra allowed the authorisation of this disconnection of my Gold phone to remain in place when it is clear that Mr Benjamin has not carried out his duties as Resolution COT Case Manager in a trustworthy or honourable manner?

A copy is attached of a letter dated 11/11/94 from the Commonwealth Ombudsman's Office to Frank Blount, CEO of Telstra. This letter clearly confirms that Telstra had still not supplied me with discovery documents, under FOI, as late as 11/11/94, even though my original letter of claim was submitted to arbitration on 7/6/94. This simply supports my claim that Telstra has withheld vital evidence from me during the lead-up to presentation of my claim to arbitration. If I had received these documents before submission of my claim, and therefore been in a position to include them, the arbitrator would have been duty bound to address the billing issues when he handed down his award. Because Telstra did not provide the necessary documents I am now still fighting, five and a half years later, to have these billing issues correctly and lawfully addressed.

It is also on record that, in May of 1997, through the Commonwealth Ombudsman's Office, Telstra actually paid me compensation for their defective administration of discovery documents, under FOI, during my arbitration. This clearly indicates that Telstra has acknowledged that they did withhold vital discovery documents, which could have further supported my letter of claim.

I have also advised Mr Benjamin that Telstra wrongly submitted evidence to my arbitration, downplaying their knowledge of the faults associated with the phone system my Goldphone was connected to at the RCM at Cape Bridgewater.

The attached letter dated 26 February 1996 from David Kearney to Bruce Matthews of Austel (which was first forwarded to your office on 9/12/00) proves that Austel were also aware of my complaints of incorrect billing (including on my

Gold phone service) and FOI documents further show that other documents which acknowledge these faults have been forwarded to the TIO, Mr John Pinnock, by Austel.

I find it most alarming that your office, and Senator Richard Alston's office, are both aware of all these issues but are still choosing to allow Telstra to unlawfully pressure me into paying an account, which all parties know is incorrect.

Last, but certainly not the least of the billing problems is raised by Telstra's advice to you of the outstanding balance on my Gold phone account. It is interesting to note that Telstra's latest letter to you states that the balance stands at \$2621.85 but the last invoice they forwarded to me shows a balance of \$2781.35. Surely this is a clear indication that the amount charged to me exceeds the actual amount due? This is the kind of problem I have raised with Austel, again and again, between 1992 and 1996: Telstra's accounting processes are wrong.

A copy is also attached of a page from the technical report submitted by DMR/Lanes to my arbitration. DMR/Lanes reports that, in relation to my Gold phone service and Telstra's System 1, there were acknowledged, continuing faults on this service. How then can Telstra bill me for the full \$570 per annum for service and equipment when the service was clearly fault-ridden for long periods of time?

In conclusion, with all this evidence in existence, how can Telstra continue to state that they require payment of \$2621.85 before they will reconnect my Goldphone service?

One solution to this situation which would determine, once and for all, who is right and who is wrong, would be for Telstra to supply me with:

1. A copy of all the billing information relating to my Goldphone showing how they arrived at the balance of \$2621.85 and,
2. A copy of all the CCAS data information for this phone, from this same period.

After all, in any other case, when a customer is in dispute with a business, it is common business practice for the business to provide details of the amount owing and how it was calculated. Telstra has never done this even once in the last eleven years. Why?

If Telstra has nothing to hide in relation to the billing issues on my various phone services then they should welcome the chance to prove their position. I am certainly perfectly happy to provide my own documented evidence as part of this democratic process in an attempt to reach an equitable conclusion to this matter.

I trust you will present this suggestion to Telstra and await their response.

Sincerely,

Alan Smith

Copies to:

Senator Kim Carr, Labor Party

Dennis Napthine, Leader in Opposition, State Parliament

276

12.07.01

Alan phoned at 11.15 am and asked me to phone him back on his fax line number.

I phoned as requested and held the phone while he hung u. I heard the click of the phone connecting with the cradle but then couldn't hear a dial tone – just silence. Alan counted to ten and picked his phone up again and we were still connected.

Alan hung up again and counted to sixty – still I couldn't hear a dial tone and still I was connected when he picked up the receiver again.

Ronda Fienberg
Occasional Office
10 Appleberry Place
North Ringwood
Victoria

[Handwritten signature]

277

16. AUG. 2001 9:22

SENATE COMMITTEES 61 9779530

NO. 2001



AUSTRALIAN SENATE

**ENVIRONMENT, COMMUNICATIONS, INFORMATION
TECHNOLOGY AND THE ARTS**

**REFERENCES COMMITTEE
LEGISLATION COMMITTEE**

16 August 2001

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Mr Alan Smith
Cape Bridgewater Holiday Camp
Blowholes Rd, RMB 4408
PORTLAND VIC 3305

Dear Mr Smith

Casualties of Telstra (COT) Matter

I refer to your letters of 26 July to the Secretary of the ECITA Standing Committee and 6 August 2001 to me, relating to the COT Cases. As Chair of the ECITA Legislation Committee, I am very concerned with your statement in the 6 August letter that you are in the possession of two *in camera* Official Committee Hansards, relating to this issue, dated 6 and 9 July 1998. Furthermore, that you intend sending these confidential Hansards to Mr Brian Pickard, Ms Sandra Wolfe's solicitor.

I wish to remind you that evidence or documents taken *in camera* or submitted on a confidential or restricted basis cannot be disclosed to another person, unless by order of the Senate. This does not occur very often, although the Senate, on 30 August 2000, did authorise the release of the Hansards of 6 and 9 July 1998 to the Victoria Police Major Fraud Group to assist in their investigations.

The fact that you have received unauthorised confidential committee documents is a serious matter, but if you disclose these documents to another person, you may be held in contempt of the Senate. I would remind you that section 15 of the *Parliamentary Privileges Act 1987* provides for penalties in relation to these matters. I would also point out that section 16 of the *Privileges Act* provides that it is not lawful for the material in question to be used in any court or tribunal. A copy of the Act is enclosed. You may wish to consult your legal adviser in relation to this.

278



I have to advise you that I am unable to provide you with any further assistance in relation to the matter as the committee has concluded its inquiry and has reported to the Senate.

I would respectfully suggest your remedies lie with the Telecommunications Industry Ombudsman and normal legal processes.

Yours sincerely

Alan Eggleston
Chair

Senator BOSWELL—Madam, I withdraw that, but I do say this: this has got a unity ticket going right through this parliament. This has united every person in this parliament—something that no-one else has ever had the ability to do—and Telstra have done it magnificently. They have got the Labor Party, they have got the National Party, they have got the Liberal Party, they have got the Democrats and they have got the Greens—all united in a singular distrust of Telstra. You have achieved a miracle.

CHAIR—Senator Boswell, I think that is sufficient.

Senator TIERNEY—Could we just go back, Mr Benjamin, beyond the point of saying people have different sorts of settlements. Going back before that, really from my point of view, you should have had your working party work out all the information. We are still getting information coming in on this after years. You should have worked out the information and then worked out what you were going to do and then come up with a settlement deal. You seem to take this fortress Telstra approach. You wait until another arrow hits and then you respond to that. I am just saying you should be more proactive, given, as Senator Boswell has said, you have united the whole parliament against you on it. Can you see that the whole thing is unfair?

Mr Benjamin—I accept that criticism and certainly there have been periods when the situation has been handled much better by Telstra. The point about documents, though, is that you do not know where you stop in this matter. It is not just a question of looking at a particular person's file. Originally we would look at a particular person's service, then it would be stretched to that exchange, then the exchanges that feed into that exchange, and so it starts to spread. The process then gets a bit hard to know where you put boundaries on it. You can multiply that by time, going back over a number of years. By the time we got to it, the dispute had been in progress for a number of years in a number of different places in the organisation. It is very difficult to be able to collate all that and say, 'There are all the documents that are pertinent.' What we tried to do was to gather together before an arbitrator—I accept your point that perhaps we should have done this before—all the documents that we thought were material to the case.

Senator TIERNEY—That emphasises my point again. All the documents you thought were material or, in other words, against this fortress 'will respond' approach. Getting it down to a handful of cases—and given the amount of time, money and heartbreak for these people you have created—surely you would come up with some sort of arrangement just to cut through the whole thing and finish it. That is really what you should do.

CHAIR—Senator Tierney, may I just interject here. One of the problems with that is that you have had three-quarters of the cases resolved. If people hang out and are more difficult than the cases that are finished earlier, you are implying that you have some sort of settlement. In some ways that could be unfair to the people who have already had their settlement because they were not as difficult. They agreed earlier and they ended up being less favourably treated. That would be unfair to those who have gone before. I do not know whether other people would agree with me, but I think that is the problem.

You have to try to get some sort of equality of treatment across to people and not just have people that hang out longest getting the best deal. They have to get a settlement which is satisfactory and also satisfactory in terms of the people who have already been out of the system. I do not know whether you agree with that. Senator Schacht, I think that is the problem that Telstra has in terms of justice.

Senator SCHACHT—When I said 'starve people into submission', Mr Benjamin shook his head in opposition to my comment, which he is fully entitled to do. I agree with you, Madam Chair, about the difficulty of those who have had their cases resolved under arbitration. Many of them will tell you that, if they did not accept it, they could not fight on. Some people are fighting on.

Journalists have said to me, 'Why are you going on supporting these people? Maybe they are just con people trying to work out a way to touch Telstra up and get a couple of million dollars out of Telstra by going on for a lengthy period of time and by wearing other people out'—as though there is some sort of con job going on. I have to say it is true that a number of these people who are still alive in CoT cases may be very obsessive about their cases. I have to say they have probably had 10 years at them. Most con people would have given up years and years ago trying to touch up Telstra or anybody else to get money. They believe genuinely that they have a case for Telstra to answer and compensation will be paid.

Obviously, if Telstra went back to the mid-1980s, or whenever it was, I trust that with the wisdom of hindsight you would deal with it a hell of a lot differently. That is one other comment I wanted to make.

Mr Benjamin—We have paid compensation and offered compensation. The argument is over the amount of that cost.

Senator SCHACHT—Of course.

Mr Benjamin—I do not know how else you would resolve it. If someone says, 'My damage was worth \$8 million', and you have been through the process and an arbitrator said X, where do you go from there?

**SENATOR THE HON NICK MINCHIN**

Minister for Industry, Science and Resources
Liberal Senator for South Australia

14th September 2001

Mr Alan Smith
Cape Bridgewater Holiday Camp
RMB 4408
PORTLAND VIC 3305

Dear Mr Smith

Thank you for your letter and attachments of 30th August 2001, concerning Telstra.

I shall draw your correspondence to Senator Minchin's attention at the earliest convenience.

I have been in contact with the office of the Hon Richard Alston, the Minister for Communications, Information Technology and the Arts, and I have been advised that a reply will be sent to you shortly addressing the matters you have raised.

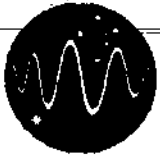
Thank you for taking the time to write and bring your concerns on this important issue to Senator Minchin's attention, who always appreciates such matters being brought to his attention.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Liz Shenton'.

Liz Shenton
Electorate Officer

279



**Australian
Communications
Authority**

File Reference No: Y2001/410

Mr Alan Smith
Cape Bridgewater Holiday Camp
Portland Vic 3305

Dear Mr Smith

I refer to your letter of 26 August 2001 to the Chairman of the Australian Communications Authority regarding your allegations about Telstra's behaviour during your arbitration procedures.

I advised you on 30 July 2001 that it is not the role of the ACA to address these matters. I note you have previously raised them with other authorities including the Commonwealth Ombudsman's Office and the Victorian Police.

I do not propose to engage in further correspondence with you on these matters.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Neil'.

John Neil
Executive Manager
Consumer Affairs Group
18 October 2001

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280

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28 December 2001

The Hon. Senator Richard Alston
The Hon. Senator Brett Mason
The Hon. Senator Bill Heffernan
David Hawker MP

Dear Sirs,

As you are already aware, I recently sold my business, the Cape Bridgewater Holiday Camp and Convention Centre. The new owners, Jenny and Darren Lewis, took over on 23rd December 2001. The day before, my partner, Cathy Ezard, notified Telstra that the telephone number associated with the business, 55 267 267, was to be transferred into the Lewis's name, as new owners of the business. Although she was kept on the phone for some time, eventually she was advised that the number would be immediately transferred to the new owners. At the same time, Ms Lewis received the same advice. For the next four days, anyone who phoned 55 267 267 reached a recorded message stating that the number was not connected. Shades of problems past!

Telstra insist that the delay occurred because the Cape Bridgewater Holiday Camp and Convention Centre is not a registered business, however, as you can see from the attached letter dated 28 September 1995, from the TIO's office to Telstra, the business was registered with Telstra on 8 March 1995 and has a Business Number Registration of 1203919U. I have also had to provide the new owners with a copy of this letter as they initially believed Telstra and were justifiably confused as to why their new business had apparently not been registered with Telstra in the correct way. You will understand my frustration, I am sure, when you realise that, in fact, I originally registered my business as a commercial enterprise back in 1989.

To add to this new edition of the ongoing Telstra saga, The Lewis's purchased a new fax machine from the Portland Retravision store, on Christmas Eve. They were told that an ex-Telstra employee, Mr Ross Anderson, was now freelancing for their store and that he would visit to connect the machine and explain how it works. Mr Anderson has not yet contacted the Lewis's, nor has he turned up to provide the service he is contracted to provide. It is interesting to note that, when working for Telstra during my arbitration, this same Ross Anderson signed a statutory declaration on behalf of Telstra in which he stated the opposite to the truth, which he was well aware of. That truth was that my business had suffered from numerous telephone faults over many years.

How is it that, although the TIO, John Pinnock, is more than fully aware of the problems I have faced because of Telstra (problems which lasted for fully five years after the so-called 'completion' of my arbitration), he has never done anything to assist me? It is also a proven fact that Mr Pinnock attempted to stop the Institute of Arbitrators from investigating my valid claims that, during my arbitration, my arbitrator acted in concert with Telstra so as to ensure that not all my claims were addressed. In order to achieve this aim, Mr Pinnock wrote to Mr

28/

Laurie James, the President of the Australian Institute of Arbitrators, and knowingly provided incorrect information which clearly insinuated that I was not a person of good character. Mr Pinnock used an innocent event, exaggerated it, turned it around and presented it as truth. The event referred to was a phone call which I made at 8 pm on 28th November 1995, to my arbitrator, to advise him that I had just received important FOI documents from Telstra. Mr Pinnock presented this call as having occurred at 2 am on the morning of 29th November 1995, even though he well knew this was not the case.

This phone call came about because of the amazing information I uncovered in the documents referred to. What I discovered was that Telstra's laboratory notes did not match up with an important report they had used as part of their defence of my arbitration. Instead they showed that a TF200 telephone, collected from my office on 28th April 1994, had not been tested by Telstra until 25 May 1994. As I am sure you know, the TF200 *report* stated that beer had been introduced into the telephone and remained 'wet and sticky' when tested, while the hand-written laboratory *notes* stated that beer dried within 24 hours after introduction into the phone. Clearly the *report* was a fraudulent document and yet the TIO has failed to investigate this situation.

I would now be most grateful if one of you could advise me who, in the government, is able to correctly investigate this evidence that Telstra used fraudulent documents in their arbitration defence of my claims, while the organisation was still fully owned by the Australian Government.

Sincerely,

Alan Smith

281