



AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

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26 August 1993

The Hon David P Beddall MP
Minister for Communications
Parliament House
Canberra ACT 2600

Facsimile No: (06) 273 4134

Dear Mr Beddall

ADVICE TO MINISTERIAL OFFICER

TPOL3 0 AUG 1993

Acknowledged

For reply by

Min

Dept

Dispt

Approp. Action

Information

Copy held for Min to see

Response by

COT CASES

AUSTEL is of the opinion Telecom's briefing of 17 August 1993 does not convey the true nature and extent of the COT case problems.

Please note re
above reply
12/8/93
D.Cel

Extent of Problem

First there is the extent of the problem. The Telecom brief gives the impression that the problem is essentially confined to seven customers with major claims. On the information available to AUSTEL this seriously underestimates the extent of the situation. AUSTEL has directed Telecom to institute detailed monitoring procedures to all five of the cases named by Telecom, plus three others, and is devising comparable requirements for a mobile telephone complainant. It is investigating the basis of a further half dozen comparable cases (including two shops claiming to have been forced into liquidation) and is aware of other cases claiming to have suffered similar problems but which were resolved by relocation or other special arrangements. Mrs Garms in Brisbane has indicated that she has identified another 50 businesses in the Fortitude Valley area which experience major telephone problems. AUSTEL's checking suggests that a significant proportion of those cases are currently experiencing problems.

Mr Dawson of Dawson's Pest and Weed Control has informed me to the effect that he contacted some 120 companies or businesses with telephone numbers in "318", "317" and "319" ranges and that -

"over 60% of the companies or businesses that we contacted today (24 August 1993) have explained that they have, and had same or similar faults problems, conditions, as we have been reporting, for years, and that some of the companies and businesses have been told that they are the only ones in the area, reporting or saying that they are experiencing the faults, problems, conditions, and Telecom

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cannot find or identify any cause in their complaints.
"Quite a few of the persons contacted were rather angry, and emotionally bitter when it was explained to them that we had been experiencing the same and/or similar faults, problems, conditions, and that we had also, been told by Telecom, we were the only ones in the area reporting and experiencing the alleged problems."

Telecom states that with the exception of _____ and the _____ the other original COT Cases continue to express dissatisfaction on the level of their telephone service. It is not made clear that _____ and that the _____ has been attached to an AXE exchange and has changed the nature of its business.

Settlements

Telecom claims to have provided very generous settlements.

The claimants would not agree that the settlements are generous or that the process leading to them has been satisfactory. Allegations they have made include -

- (a) that they continue to experience the problems giving rise to their claims
- (b) that the existence and incidence of their problems has been denied or down played
- (c) that they have been told that their problems were unique when Telecom knew that they were not (this is part of a perception of misleading and deceptive conduct)
- (d) that the negotiation/settlement process was extended over such a long period during which the consumer was financially at risk that they were forced to accept inadequate amounts of compensation in order to retain ownership of their business
- (e) that Telecom has stated that it has no liability under the law to compensate for network faults when it is aware that it has such a liability.

Allegations of misleading and deceptive conduct go beyond the items mentioned at (c) and (e) above and extend to underestimating the extent of problems experienced by failing to take into account reported faults which it had recorded "off-line", failure to make available all relevant information sought under the *Freedom of Information Act 1982* and misleading briefings. Of course allegations are not necessarily accurate and even if they are, the actions may be the result of incompetence rather than an attempt to deceive. They are, nevertheless, matters which AUSTEL must pursue.

Incidence of Problem

All consumers are faced with difficulty in attempting to quantify the extent of any alleged problem. AUSTEL's concern - and it is one reflected in the Telecom briefing - is the way in which Telecom describes the extent of the fault. On a number of occasions it is said by Telecom that its data does not substantiate the level of problems claimed by the consumer. This may very easily be read as saying that Telecom believes that there is little or no problem in the consumer's service when it may well mask the conclusion that the incidence is well above average but not at the level claimed.

Telecom has a tendency to brief in terms of the adequacy of service on an averaged national basis. That service at a national level meets high standards is not at issue - it is the service provided to the complainants which is relevant.

Individual Briefs

A few points can be made to give credence to claims of selective briefing which have been alleged by COT Case members after having sighted briefing provided to politicians.

Garms

- The summary relates to 1990 onwards - Mrs Garms has been in dispute with Telecom since 1984 - the brief speaks in terms of "*over three years*"
- some reservation might be held as to Telecom's view that the settlement was very generous given the duration of Mrs Garms' concerns, the fact that Telecom did not provide all relevant information to Mrs Garms in its initial response to her FOI request and only made information which she says is relevant to her claim available to her at "*the eleventh hour*".

Schorer

- Schorer has claimed that refusal of testing was in the context of an agreement whereby Telecom would commence the settlement process when it has **experienced** the faults rather than **identified** them.
- he maintains that there is a regular calling pattern throughout the day for his business and when he is not receiving calls at a time which is normally busy there may be an intermittent fault in the network affecting him.

Cape Bridgewater

- Telecom has admitted existence of unidentified faults to AUSTEL. ↙

Dawson

- twice it is suggested that no faults have been identified but Telecom has admitted to AUSTEL that Dawson does experience problems due to power line interference.
- reference to financial settlement misleading - no real claim yet made and a minimal waiver of charges has been made.

There is also a most serious aspect of Dawson's case in that as recently as 23 July 1993, Telecom informed him -

"Under the Telecommunications Act 1991 we are not legally liable to compensate customers for network problems....."

That statement is quite misleading and deceptive - the 1991 Act had the effect of removing Telecom's statutory immunity against claims for damages for network loss.

Summary

There is a wide difference between Telecom's perspective and those of its customers. AUSTEL's current inquiry is directed to getting "hard information" to enable to scope the problems, what is causing them and how they might best be resolved.

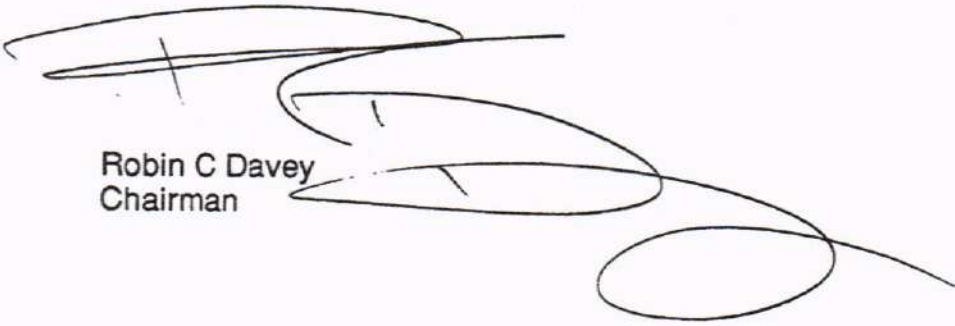
In the course of doing that, we will also be looking at whether the problems were known to Telecom and, in that context, whether -

- Telecom's conduct towards the complainants was misleading or deceptive
- Telecom's response to reported problems was responsible and whether its approach to the settlements may be so characterised.

Dealing with these COT Cases as a series of single incidences is a mistake on Telecom's part. Until Telecom approaches the COT Cases on the basis that they may be indicative of a wider underlying problem that should be addressed it will be open to criticism.

No doubt, if we were to provide copies of the summaries to the complainants, the complainants would come up with even greater criticisms - see for example the attached comments by Mrs Garms and Mr Schorer on copies of briefings on their cases that were provided by Telecom to Senators who have been considering whether to conduct an inquiry into Telecom's handling of the COT Cases.

Yours sincerely



Robin C Davey
Chairman



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Minister for Communications

The Hon. David Beddall, MP

Mr D M Hoare
Chairman
Telstra Corporation Ltd
PO Box A1280
SYDNEY SOUTH NSW 2000

Dear Mr Hoare

On 19 February 1993 Senator Collins wrote to you concerning complaints from a number of businesses organised as "Casualties of Telecom" (COT). The Minister asked that you and Mr Blount take personal responsibility for resolving the matter speedily.

As far as I am aware, the Government has not been provided with any formal report by Telecom since that letter.

These cases are continuing to receive unfavourable publicity. It is not clear that all of the parties concerned are satisfied with the settlement apparently reached, nor that they believe they are currently receiving an adequate telephone service. Another complainant, Mr Alan Smith of Cape Bridgewater, Victoria, has recently made representations to me about business lost due to an allegedly deficient telephone service.

You are no doubt aware that the possibility of a Senate inquiry into these matters has been raised.

I would appreciate a report from you on the current situation with regard to COT cases (including Mr Alan Smith) as soon as possible, and preferably no later than 13 August.

Yours sincerely

SIGNED

9 ~~13~~ AUG 1993

DAVID BEDDALL

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Minister for Communications

The Hon. David Beddall, MP

9 DEC 1993

Senator Michael Baume
Senator for New South Wales
PO Box 473
WOLLONGONG EAST NSW 2520

Dear Senator Baume

Thank you for your representations of 5 November to Senator the Hon Bob Collins, Minister for Transport and Communications, on behalf of Mr Alan Smith, Cape Bridgewater Holiday Camp, RMB 4408, Cape Bridgewater, Victoria, concerning the standard of service he has received from Telecom Australia. Senator Collins has referred your letter to me in view of my responsibility for matters relating to telecommunications.

I wrote directly to Mr Smith on 10 November 1993 with regard to this issue.

Let me say that the Government is most concerned at allegations that Telecom has not been maintaining telecommunications service quality at appropriate levels. I accept that in a number of cases, including Mr Smith's there has been great personal and financial distress. This is of great concern to me and a full investigation of the facts is clearly warranted.

I have personally communicated these concerns to the Chairman and Chief Executive Officer of Telecom and asked them to take a direct interest in the resolution of the so-called "Casualties of Telecom" (COT) cases.

You may be aware that AUSTEL, the independent telecommunications regulatory authority, has a clear function of safeguarding consumer interests. It has powers under the Telecommunications Act 1991 to investigate consumer complaints about the supply of telecommunications services.

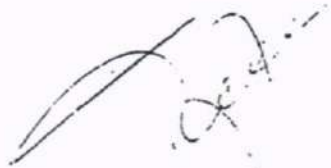
AUSTEL is currently conducting a thorough investigation to determine the exact nature and extent of the problems experienced by some Telecom customers. AUSTEL expects to finalise its report shortly.

HC

Telecom, for its part, has deployed a dedicated customer service review team to work with affected customers to rectify their problems. It has also commissioned independent experts to assess Telecom's technical and administrative responses to complaints of this nature, and to recommend changes to improve its complaints handling procedures.

I will be giving close attention to AUSTEL's report on the results of its investigations and proposed action to address these issues.

Yours sincerely



DAVID BEDDALL

The fast track settlement proposal, with Dr Gordon Hughes at the helm, had foundered during November and December 1993. By March 1994 TELSTRA were using their corporate strength to force the C.O.T. members into expensive and time-consuming legal processes. If TELSTRA could not get the arbitration process they had wanted since September 1993 it appeared that they would pick up their ball and go home.

HC