



FERRIER HODGSON CORPORATE ADVISORY

BY COURIER

Our Ref: A1.4

15 November 1995

Mr John Pinnock  
Telecommunications Industry Ombudsman  
TIO Limited  
321 Exhibition St  
MELBOURNE VIC 3000

Dear Sir,

RE : Telecommunications Industry Ombudsman - Resource Unit  
Fast Track Arbitration - Alan Smith

We refer to your letter dated 9 November 1995 with the attached facsimile from Mr Alan Smith dated 8 November 1995, and your recent conversations with Ms Susan Hodgkinson of this office concerning the above completed arbitration.

You have asked us to provide clarification of the issue raised by Mr Smith relating to the deletion of references to a potential addendum on possible discrepancies in Smith's Telecom bills in the final Technical Evaluation Report. We have spoken to Lane Telecommunications Pty Ltd ("Lanes"), who acted as Technical Consultants to the Resource Unit in the above Arbitration, and they have provided the following comments in relation to the issue raised by Mr Smith:

*"At a late stage of the Arbitration process, at the time of preparation of the Technical Evaluation Report, there was discussion about billing issues which had been raised by Mr Smith. A draft of the Technical Evaluation Report therefore included reference to the billing matters, which it was thought might require further work beyond the time of issue of the Report."*

*The primary matter concerned Mr Smith's bills for outgoing calls from Cape Bridgewater. Mr Smith had observed that there was a discrepancy between the call durations of STD calls on his bills and the durations shown by Telecom's call recording equipment connected to Mr Smith's line (in the Customer Access Network).*

*Discussions were held with Telecom (Mr Peter Gamble) in Mr Smith's presence during the visit to Cape Bridgewater in April 1995, which provided the following information:*

FERRIER HODGSON CORPORATE ADVISORY (VIC) PTY LTD

A.C.N. 052 403 040

EXECUTIVE DIRECTORS: DOUG CARLSON, JOHN SELAK

LEVEL 25 140 WILLIAM STREET MELBOURNE VICTORIA 3000

TELEPHONE 03 629 8855 FACSIMILE 03 629 8361

LICENSED INVESTMENT ADVISER

1-A



- For outgoing calls on a normal customer exchange line, the caller notes the answer of the called party by cessation of the ring tone and the answering voice. However, there is no corresponding physical (electrical) signal on the caller's line (CAN side of the exchange) for the call recording equipment to register that an answer has occurred. Consequently, timing of the call recording equipment is configured to allow a fixed time to answer (say 30 seconds) from the time the caller lifts the handset, or from the completion of dialling, until it assumes that answer has taken place. Thus the overall measured duration of the call from lifting to replacement of the handset is reduced by this fixed amount to give the (assumed) nominal conversation time.
- Billing on the other hand is based on signals recorded at the caller's exchange, including a physical signal to indicate called party answer. Thus the billing duration is precise.
- At an individual call level, there will therefore be discrepancies between the two sets of call duration records except where the actual and assumed times to answer are the same.
- Lanes considered and accepted this technical explanation from Telecom as plausible, and believe Mr Smith also understood and accepted it. Consequently, as the discussion appeared to have resolved this matter, it was not included in the formal Technical Evaluation Report.

A second matter involved 008 calls. Again, this matter was current at a late stage (April 1995) of the Arbitration process. This matter concerned possible overlap in the records of 008 calls made to Mr Smith, and for which he was billed. However, Lanes and DMR Group Inc concluded that the level of disruption to Mr Smith's overall service was not clear, and that it was unlikely that further work would clarify the matter to the extent that it would have a measurable effect on the Arbitrator's determination. The matter was discussed in Section 2.23 of the Technical Evaluation Report, and an assessment of "Indeterminate" was reached.

As no further progress was likely to be made on these matters, the formal version of the Technical Evaluation Report did not leave the billing issue open."

I trust that the above advice from Lane Telecommunications clarifies the issue raised by Mr Smith regarding the Resource Unit's Technical Evaluation Report.



If you have any further queries please do not hesitate to contact the writer or Ms Susan Hodgkinson on (03) 629 8855.

Yours faithfully,  
FERRIER HODGSON CORPORATE ADVISORY

A handwritten signature in cursive script that reads 'John Rundell'.

JOHN RUNDELL  
Project Manager  
Associate Director

cc Dr Gordon Hughes, Hunt & Hunt  
Mr Andrew Crouch, Lane Telecommunications Pty Ltd  
Mr Paul Howell, DMR Group Inc

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DRAFT DMR + LANE  
REPORT

2.22 All services for CBHC were lost for 3 hours due to an exchange data programming error. Such major impact due to an operational error is deemed a less than reasonable level of service.

ASSESSMENT - Service was less than reasonable.

2.23 Continued reports of 008 faults up to the present. As the level of disruption to overall CBHC service is not clear, and fault causes have not been diagnosed, a reasonable expectation is that these faults would remain "open".

ASSESSMENT - Indeterminate.

3. About 200 fault reports were made over December 1992 to October 1994. Specific assessment of these reports other than where covered above, has not been attempted.

## 5 Summary

CBHC telephone services have suffered considerable technical difficulties during the period in question. Telecom, certainly initially fully concentrated on the CAN/CPE elements, and if they were 'intact', faults would be treated as NFF (No Fault Found). As can be seen from the above, faults did exist that affected the CBHC services, causing service to fall below a reasonable level and apart from CPE problems, most of these faults or problems were in the Inter Exchange Network.

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# DNR-LANE FINAL REPORT

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# DMR CORPORATE

DMR

D M R. Corporate Pty Ltd  
40 Market Street  
Melbourne  
Victoria 3000  
Australia

A.C.N. 063 664 045  
Facsimile (03) 9629 4598  
Telephone (03) 9629 4277  
Mobile 018 635 107

22 December 1995

Mr J Pinnock  
Telecommunications Industry Ombudsman  
321 Exhibition Street  
Melbourne  
VIC 3000

Dear Mr Pinnock,

Re: Alan Smith

Further to your letter dated 20 December 1995 I respond to your request as follows:

1. The Ferrier Hodgson Corporate Advisory (Vic) Pty Ltd ("FHCA") report was dated 3 May 1995 and I received a copy of the report on 5 May. After discussions with Alan Smith it was decided that I should reply to the report as soon as possible. I worked all day Saturday and Sunday with Alan Smith trying to interpret the FHCA report. After this work I considered that the report was incomplete as the calculations of the FHCA loss figures were not included in their report.
2. On 8 May 1995 I telephoned FHCA and spoke to John Rundell and requested a meeting to discuss how the FHCA loss figures were determined. He was reluctant to talk to me at that time however we set a tentative date of 17 May 1995 for us to discuss this matter again. I have a note in my diary for the 17 May 1995 - John Rundle - Ferriers -604 5188.

My response to the FHCA report was lodged on 9 May 1995.

On 17 May I telephoned John Rundell and he stated that he was unable to discuss anything with me until the appeal period had expired. During that telephone conversation I told him that I was unable to recalculate the FHCA figures and that I felt that the report was deficient in that regard. He then stated that he understood my problems and that FHCA had excluded a large amount of information from their final report at the request of the arbitrator.

To the best of my recollection the above facts are exactly as they occurred.

Yours faithfully

Derek Ryan

1-C

# DMR CORPORATE

DMR

DMR Corporate Pty Ltd  
40 Market Street  
Melbourne  
Victoria 3000  
Australia

A.C.N. 063 564 045  
Facsimile (03) 9629 4598  
Telephone (03) 9629 4277  
Mobile 018 635 107

6 December 1995

Senator R Alston  
Level 2, Suite 3  
424 St Kilda Road  
Melbourne  
Vic

Dear Senator Alston,

## Re: Casualties of Telecom ("COT") - A Smith

Over the last 2 years I have acted as an independent accountant for Alan Smith and I prepared the independent assessment of his losses and damages which formed part of his submission to the arbitrator, Dr G Hughes.

In response to accounting documents and evidence submitted to the arbitrator, he appointed Ferrier Hodgson Corporate Advisory (Vic) Pty Ltd ("FHCA") to support him in assessing the losses and damages.

The FHCA report was inaccurate and incomplete. I have since been advised by a staff member of FHCA that a large amount of information was excluded from their final report at the request of the arbitrator. This has left the report in an incomplete state and it is impossible for anyone to re-calculate or understand how the FHCA loss figures were determined. This effectively meant that it was impossible to challenge the assumptions, calculations and the time periods used in the FHCA report.

After receiving a copy of the FHCA report I responded with a letter dated 9 May 1995 and a copy of that letter is attached for your information. I have never been provided with a response or any further details in respect of this letter.

I consider that a grave miscarriage of justice has occurred in relation to the A Smith arbitration and that without a full and open inquiry it may be impossible to ever determine how the arbitrators award was calculated.

Yours sincerely

Derek Ryan

1-D

John W Rundell  
95 Dandy Street  
BRIGHTON VIC 3186

Private & Confidential

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

COPY

13 February 1996

Dear John

Fast Track Arbitration Procedure - Alan Smith

Other matters: D M Ryan letter of 22 December 1995

I acknowledge receipt of your letter of 23 January 1996, enclosing a copy of a letter dated 22 December 1995, which you received from Mr Derek Ryan. I have reviewed his letter and refute that the statement that FHCA had excluded a large amount of information from their final report "at the request of the arbitrator".

I did advise Mr Ryan that the final report did not cover all material and working papers.

The Ferrier Hodgson report was prepared for the arbitrator and was provided as part of the Fast Track Arbitration to Mr Ryan and Mr Smith for comment and they did so in writing to the arbitrator.

I am surprised that it is only now some 8 months since my telephone calls with Mr Ryan that this matter has been raised with you.

Contact with Mr Derek Ryan

For your information, I now outline the details of my limited discussions with Mr Ryan.

1. On 8 May 1995, I received a telephone call from Mr Ryan and at the time Ms Susan Hodgkinson was in my office. The discussion was cautious and I was unwilling to meet with Mr Ryan at that time. I suggested that I would be happy to meet with him after the appeal period for the Smith arbitration had passed, but only to discuss the information required and preferred approach in relation to other claims. I felt this may be useful as Mr Ryan had advised me that he acted for a number of other COT

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claimants and also I knew Mr Ryan professionally from his time as a partner of Touche Ross.

2. Further, on Thursday, 18 May (not 17 May 1995, as dated by Mr Ryan) I received two pager messages from Mr Ryan. I then returned his call early afternoon by mobile phone. I do not have a file note record of this call as I was in a car at Tyab on the Mornington Peninsular. I do not believe that I made the statement he has attributed to me. From my recollection of the call, Mr Ryan was attempting to make me commit to statements, which I was unwilling to comment on. Unfortunately, I can provide no further details of this call.

#### Other Matters

Further, I wish to advise that I am most concerned by the fact that Mr Smith engaged a private investigator, who visited me at my home on 27 December 1995, with the intention of discussing matters associated with the Ferrier Hodgson report. I find such an intrusion into my privacy and home (and also the tape recording of our discussion without advice) highly unusual and inappropriate.

As you may be aware, I have contacted the Brighton CIB in relation to:

1. damage to property at my home
2. the actions of Mr Smith impersonating me and pursuing me via the use of a private investigator.

You should be aware that the Brighton CIB intend to interview Mr Smith in relation to criminal damage to my property, but regard the matter of his impersonation and tape recording and telephoning me at home as civil matters.

Could you please provide a copy of relevant correspondence sent to Mr Smith advising him not to make contact with members of the resource unit to assist the police in their investigations.

You should also be aware that as a result of the actions by Mr Smith in contacting me at home. I have reluctantly found it necessary to install a private and silent telephone line at home. Although, Telstra offered to provide this without charge, I would not accept that and will be paying the cost on my account.

May I take this opportunity of wishing you and your staff all the best for 1996, and I trust that you will shortly receive resolution of these outstanding fast track arbitration's.

Please do not hesitate to contact me directly at KPMG should you wish to discuss any matters associated with these arbitration's. My direct line is 9288 5457.

Yours faithfully

John W Rundell

cc

Ms Susan Hodgkinson  
Project Manager  
Resource Unit  
Ferrier Hodgson Corporate Advisory

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Telecommunications  
Industry  
Ombudsman

March 9, 1995

Mr. Alan Smith  
Cape Bridgewater Holiday Camp  
Blowholes Road  
RMB 4408  
CAPE BRIDGEWATER VIC. 3306

Warwick L Smith LLB  
Ombudsman

By facsimile: (055) 267 230

Dear Alan,

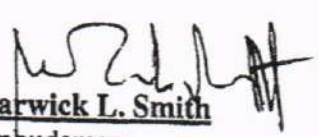
Re: **Resource Unit - Technical Support**

As the executive of DMR Group Australia Pty. Ltd. is unavailable to provide locally based technical assistance, I propose to utilise the services of Mr. David Read and Mr. Chris Soutter of Lane Telecommunications (based in Adelaide) who are suitably qualified and independent.

Messrs. Read and Soutter will assist Mr. Paul Howell of DMR Group Inc. (Canada) in the technical assessment under the Fast Track Arbitration Procedure. Mr. Howell the principal technical advisor to the Resource Unit will be in Australia within two weeks. The technical enquiries will commence on Thursday 16th March, 1995.

Could you please confirm with me in writing that you have no objection to this appointment so the matter can proceed forthwith.

Yours faithfully,

  
Warwick L. Smith  
Ombudsman

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

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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.

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EXECUTIVE DIRECTORS: DOUG CARLSON, JOHN SELAR, STEPHEN GRANT, GRANT CARMAN

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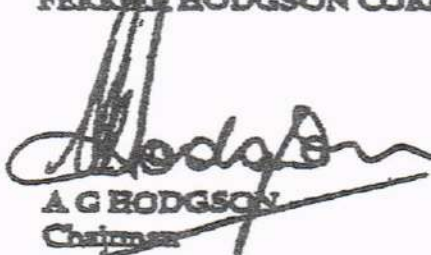
For your information I have provided the following response to Mr Smith's allegations in his facsimile of 10 March 1998:

- 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

End.

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 Finnock, Telecommunications Industry Ombudsman (Fax: 9277 8797)