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24 November 1994

## CONFIRMATION OF FACSIMILE

By Facsimile 287 7001

Graham Schorer  
23 Kensington Road  
SOUTH YARRA VIC 3141

Dear Graham

### Fast Track Settlement Procedure

You have suggested that it is your understanding that Telecom will pay the costs of preparation and submission of your claim. My recollections and my file do not accord with your recollections.

1. The Fast Track Settlement Proposal does not provide for the recovery of the costs of preparing the claim. It does provide (clause 2(k)) for Telecom paying the assessors costs however.
2. The Fast Track Arbitration Procedure does not provide for recovery of such costs.
3. On 28 March 1994 Ann Garms advised me that she was not happy that she would need to bear her own costs of the submission.
4. On 28 March Amanda Davis said that she would like solicitor/client costs.
5. I understand that Steve Black and Warwick Smith discussed and agreed on 29 March 1994, that the claimants would fund the preparation of their claims, and Telecom would fund the administrative costs, including that of the Arbitrator, the Resource Unit and the TIO's costs.
6. On 29 March Warwick Smith sent me a letter which included the following:

1/plb432803

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(02) 210 4444

BRISBANE  
(07) 226 6333

CANBERRA  
(06) 248 7533

GOLD COAST  
(075) 708 444

HONG KONG  
+852 846 9100

LONDON  
+44 71 831 7871

ADELAIDE ASSOCIATED OFFICE: MINTER ELLISON BAKER O'LOUGHLIN (08) 233 5555  
PERTH ASSOCIATED OFFICE: MINTER ELLISON NORTHMORE HALE (09) 429 7444

OVERSEAS ASSOCIATED OFFICES:  
AUCKLAND WELLINGTON BEIJING JAKARTA SINGAPORE

'As to costs, the arrangement is that the administrative costs of the procedure such as TIO, Legal Counsel, Assessor and Resource Unit are covered by Telecom. Some initial conference costs at my request were also covered. Per the agreement and the procedure costs for COT claimants of their submissions are their responsibility.'

7. Bernard Ponting & Co, in their letter to Mrs Garms of 28 March 1994, noted that the costs of preparation would fall on Mrs Garms (paragraph 1). He added that if there was a need for Mrs Garms to travel to Melbourne, she would also need to bear the cost of that travel.

In this regard he referred to clause 22 of the draft Procedure.

8. I discussed this on 29 March 1994 in the context of it being possible to ask the Arbitrator to have any oral hearings in Brisbane, to reduce the costs to the claimants. There was no discussion that such costs would be recoverable from Telecom.
9. Mr Ponting's letter of 31 March (paragraph 9) expressed a wish that Telecom should bear the claimant's costs throughout, rather than each party bearing its own costs, as he acknowledged was provided in clause 22 of the Fast Track Arbitration Procedure. However, no subsequent amendment was made to clause 22.
10. Amanda Davis executed the Procedure with no amendment to clause 22.
11. In the discussions leading up to the signing by the other COT, clause 22 was not amended.
12. Graham Schorer told me on 13 April that he believed that 'losses' include the time etc in preparing the case and organising the media campaign. He felt that such costs should be part of the award. He said that Robin Davey agreed with this.  
  
I noted that the draft Procedure did not recognise that such costs form part of the claim.
13. Graham repeated these comments on 15 April.
14. Warwick Smith told me on 15 April that he had spoken with Robin Davey and Robin Davey felt that clause 22 on costs accurately reflected the agreement. Davey said that the costs of preparation did not form part of the loss.
15. I also spoke directly to Robin Davey on 15 April and he said that the Proposal did not envisage Telecom paying the costs of the preparation.
16. All issues were discussed at a meeting on 20 April, at which Robin Davey was also present.

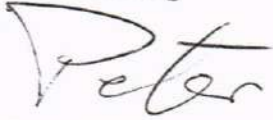
Graham Schorer  
24 November 1994

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17. Clause 22 of the Procedure, signed by Messrs Garms, Smith and Schorer on 21 April 1994, provides that each party, shall bear their own costs of the arbitration.

If you have any queries please let me know.

Yours sincerely

A handwritten signature in cursive script that reads "Peter".

Peter Bartlett