

**Freemans**

Sunshine Coast

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16 September, 1994

Messrs Hunt & Hunt  
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GPO Box 1533N  
MELBOURNE VIC 3001

By Facsimile: (03) 614 8730

**ATTENTION: DR GORDON L HUGHES**

Dear Dr Hughes

**ARBITRATION - TELECOM - ALLAN SMITH -  
CAPE BRIDGEWATER HOLIDAY CAMP**

**L69153**

Please accept the enclosed as Allan Smith's reply to the Telecom Interrogatories in respect to our Client's submissions to yourself in the Fast Track Arbitration procedure.

You will note that various answers in relation to the supply of documents in Schedule Two refer to documentation that is to be supplied direct to the Arbitrator. Our Client has furnished us with a significant amount of material that is to be forwarded to yourself and the same will be onforwarded by mail on Tuesday the 20 September 1994.

In respect to some of the material requested by Telecom, Mr Smith has been unable to locate the appropriate document. Mr Smith recognises that if the document is unable to be found then you will continue your procedure to assessment without that particular document. Mr Smith would then rely on your understanding that not every document over the past six years has been able to be located. I am sure that we are all aware of Telecom's inability to supply a wealth of documents to the COT cases.

In respect to Schedule Two, Number 6, Documents relating to the fault history of CBHC's telephone service and the request by Telecom for the supply of copies of Mr Smith's diaries which contain contemporaneous notes, we would advise that Mr Smith has some very real concerns about the supply of such diaries without deletion to Telecom. Mr Smith's reasons have been related to ourselves and we would share the concerns held by Mr Smith that Telecom could not guarantee the security of the contents of these diaries.

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If you feel that the diaries should be made available could you please advise either ourselves or our Client as to the form that they should take and the manner in which they can be viewed.

Please note that these documents were available to be faxed to your office on 16 September 1994. Advices from your office indicated that such material should be forwarded on 20 September 1994.

If we can be of any assistance to you in any matter whatsoever in relation to our Client's claim, please do not hesitate to contact Mr Gary Ellacott on the business number.

ENCLOSURES:

Reply to Telecom's Interrogatories

Yours faithfully

PLUMMER AND PULLINGER

*Gary Ellacott*  
*Per: J Angle*

L69154

## SCHEDULE 1

### SMITH - REQUEST FOR PARTICULARS OF CLAIM DOCUMENTS

#### LETTER OF CLAIM:

#### 1. In relation to page 3:

The Claimant has stated that his telephone service is still operating at a totally deficient level.

- (a) State the basis upon which it is alleged that the Claimant's telephone service is still operating at a totally deficient level.
- (b) State what documentation, if any, supports the allegation that the Claimant's telephone service is still operating at a totally deficient level.

#### Answer Question 1:

- (a) Such statement that the telephone service is still operating at a totally deficient level was based upon the experiences and standard of my phone service at the time of placing the initial letter of claim in June of 1994. Examples of the problems and proof of this deficiency are as follows:-

- (i) Group General Manager Customer Response, Steven Black's Secretary experienced repeated voice announcements on my telephone service on the 25 May 1994.
- (ii) Peter Gamble, Telecom Technical Engineer, experienced problems while ringing on my incoming line and asked me to pick up the telephone on my fax line. This line had rang six times although we did not receive a facsimile. At the time of lifting the phone and an engage signal was heard and a house guest, who was staying at the premises, verified the experience to Mr Gamble.
- (iii) I am still experiencing concerns over my telephone account and in particular on the 31 May 1994 and again on the 31 May both short duration calls.
- (iv) Telecom's own records will show fault reports up until June 1994.

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I would clarify that I have openly stated since July of 1994 I believe my telephone service has been much better. I would have had only three or four complaints at best in that period of two months.

- (b) The documentation has recently been submitted to the Arbitrator. Telecom can check the details in relation to short duration calls from my accounts. I would also suggest that Telecom check their own fault reports up until June of 1994 for the numbers 132999 and 1100.

**2. In relation to page 5:**

The Claimant has stated that the Austel report, the Senate Committee References in relation to this matter, the Coopers & Lybrand report and the Bell Canada International report all advise that Telecom's testing may not have been able to identify the problems that the Claimant was allegedly experiencing with his telephone service.

- (a) State where in the Austel report, the Senate Committee References, the Coopers & Lybrand report and the Bell Canada International report all advise that Telecom's testing may not have been able to identify the problems that the Claimant was allegedly experiencing with his telephone service.

**Answer Question 2:**

L69156

Mr Arbitrator, I would refer you to Page 5 of my initial Report where I state that I rely upon your understanding of the Austel Report into the COT Cases, the Senate Committee references in relation to this matter, the Coopers & Lybrand Report and the Bell Canada International Report in respect to the monitoring/testing of fault problem in the network. I would consider that this arbitration procedure would rely upon such references and identify the areas. I note that Telecom have chose to play on words stating that the Austel Report, the Senate Committee references in relation to this matter, the Coopers & Lybrand Report and the Bell Canada International Report all advise that Telecom's testing may not have been able to identify the problems that the Claimant was allegedly experiencing with his telephone service. Notwithstanding this and without dissecting



every chapter, paragraph and sentence of all of those Reports, I would refer you particularly to Chapter 5, Pages 91 to 98 inclusive. I would also refer you to Chapter 6 of the COT Report which refers to the Coopers & Lybrand Report. I believe that the reading of this entire chapter would have a reasonable person form the opinion that Telecom may not have been able to identify the problems that I was experiencing. Particularly I would refer you to Clause 7.1 on Page 113, paragraph 6.14, 6.15, 6.20, 6.21, 6.23 which refers to the Coopers & Lybrand Report paragraph 2.3, 6.33, 6.34, 6.35, 6.37, 6.38, 6.39, 6.40, 6.43, 6.47 to 6.55 inclusive, 6.58. Without limiting myself to just those particular sections as I have already asked you Mr Arbitrator that I rely upon your understanding of such Reports I would also refer you to Page 223 of the Austel Report which specifically outlines the Coopers & Lybrand 's Report at number R10 where Telecom acknowledge after a World wide search that it has been unable to find adequate equipment to measure incoming calls to customers' premises. Obviously such testing and monitoring to find the faults would require equipment to measure the incoming calls.

Mr Arbitrator, I certainly do not have the time and resources to pull apart every comment made in relation to Telecom's ability to identify the problems that I was experiencing. I think the examples that I have given and their reliance on your understanding of the Reports mentioned will leave you in no doubt as I stated in my original Report of the 12 June 1994.

**3. In relation to page 5:**

The Claimant has stated that Telecom has still not been able to locate, identify and solve the problems that he is allegedly experiencing with his telephone service.

- (a) State the basis upon which it is alleged that Telecom has still not been able to locate, identify and solve the problems that the Claimant is allegedly experiencing with his telephone service.

**Answer Question 3:**

L69157

The basis of this allegation is that even after the replacement of the ARK exchange which was proven to be fault ridden and had suffered congestion an RCM was installed in August of 1991.



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You will note that the Austel Report states that problems were still experienced with this RCM as late as 1994.

We also have Telecom documents that have condemned the insulation of this RCM, again no fault alarms were connected. The RCM suffered with heat. The RCM was not insulated when built, dampness was creeping under the interior walls. Again, check with Portland Hospital, even in 1993, it was hard to ring through to a doctor in Cape Bridgewater.

When my first submission had been presented, RVA and one ring burst were still very common up until June 1994. It is only these past two months that has seen a drastic improvement.

We have already established evidence of complaints by persons in the Camp and out of the Camp that experienced faults in abundance with the phone.

Late in 1993, I spoke to Commercial Telecom Management including Mr Morris, Mr Gamble and Mr Pendlebury who said there appeared to be an improvement with calls yet the one ring bursts and RVA were still being experienced by different all round segment of the community.

Telecom themselves, 1100, Telecom Commercial have all experienced phone faults when trying to contact the C.B.H.C. Ray Morris of Telecom Commercial even switched lines over in 1993 because a customer who had experienced two years of phone problems while contacting the Camp, complained to him direct. 0173. early reminder calls, even had problems while trying to contact me here. A fax from 0173 I have in my keeping.

Again I repeat the fact that Steven Black's secretary experienced phone faults as late as May 1994. These are just examples of phone faults of late where they have had a drastic effect to my business for the coming year of 1995. Camps are usually booked a year in advance.

If all the phone faults had been fixed in 1991, then why have I so many customer letters, Telecom letters, stating they have had difficulty in making contact with this business.

L 69158



**4. In relation to page 6:**

The Claimant has stated that he is currently the owner/manager of the Cape Bridgewater Holiday Camp and Convention Centre ("CBHC").

- (a) State whether the Claimant has been the sole owner and/or manager of CBHC between February 1988 and August 1994.
- (b) To the extent that the Claimant has not been the sole owner and/or manager of CBHC between February 1988 and August 1994, state who else (and for what periods) also owned and/or managed (partly or wholly) CBHC.

**Answer Question 4:**

- (a) Husband and wife team up until October 1989. Mrs Karen Gladmen lent Mr Smith \$60,000.00 on 25 June 1991. A partnership type of arrangement was made, Mrs Karen Gladmen having her name then transferred on to title (Freehold). Mrs Gladmen ceased to have any involvement in the running of this business as from the 16 December 1992.

Peter Lonsdale, Commonwealth Development Bank, is aware of this dissolution in partnership. Statutory Declaration to this arrangement is appended (3A).

Mrs Gladmen is still on title, as cost of Solicitor's fees to close this transfer has not been available.

Mrs Smith, ex-wife is still on title. \$18,000.00 is still owed to former spouse. (Telecom is aware of this, as a search has already been done by Telecom). This I have found in my Freedom of Information.

L 69159

Mr Arbitrator, Telecom Solicitors are playing games with this Arbitration procedure. They are just making this procedure as hard, difficult for me emotionally as they can.

## 5. In relation to page 8:

CAPE BRIDGEWATER HOLIDAY CAMP

The Claimant has stated that within twelve months of purchase of CBHC, he could have turned over approximately \$120,000 and CBHC would have been able to grow by up to 40% per year.

- (a) State the basis upon which it is alleged that within twelve months of purchase of CBHC, the Claimant could have turned over approximately \$120,000 and CBHC would have been able to grow by up to 40% per year.
- (b) State what documentation, if any, has been submitted by the Claimant to support the allegations that within twelve months of purchase of CBHC, the Claimant would have been able to turn over approximately \$120,000 and CBHC would have been able to grow by up to 40% per year.

## Answer Question 5:

L69160

- (a) I relied upon my experience in respect to the previous catering and accommodation premises where I had had nothing but outstanding success in building up the trade. As I have previously discussed, I had intended to improve the accessibility of the Camp, that is, opening the Holiday Camp to Seminars, Singles Groups, Conservation Groups and Educational Children based Groups. Telecom would be well aware of one particular instance of this, in that I had two meetings in 1992 with the management of Telecom to discuss this very aspect of running an Educational Camp for children. I also met with the Australian Conservation Foundation. They also attended for two days at the Complex. Furthermore I met Peter Dudley, President of the Australia Beautiful Council. Apart from all of these ideas, I also had put into place the advertising areas and promotion of that percentage that was not return custom. You will be aware that in the first year of operation I was able to increase the turnover of the previous owner of \$56,000.00 to \$72,000.00. This showed an increase of 22.5% with in my opinion my phone service working at 50% of its capability. You will note that 2,000 Brochures on the expected market return of 2% means forty enquiries on the 2,000 Brochures. All of these enquiries, of course, would be rebookings therefore on the (conservative equation) I believe I would

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have obtained eight bookings out of these enquiries. If you average my bookings at \$3,500.00, once again this adds \$28,000.00 to the amount of \$72,000.00. Thus \$100,000.00. If you take into consideration all of the other forms of ringing and door knocking that I did and the expertise I had in the preparation of food, then I believe that I would have adequately have been able to turn over approximately \$120,000.00. Of course you would note that C.B.H.C. was able under all of the extreme difficulties to be able to grow by 22.5% in the first year. I maintain that if my telephone service had of been working adequately then I would have been able to grow by up to 40% per year.

✓ CAPE BRIDGEWATER HOLIDAY CAMP?

To further support the basis of C.B.H.C. being able to grow by up to 40% each year I would submit the following. I had intended to have an environment based, education, back to basics theme for the camps. After talking to various parties I contacted a Robert Palmer under suggestion. Originally I only knew of Robert Palmer from a letter received about my communication faults. It turns out, however, that Mr Palmer had actually been to the Camp at Cape Bridgewater with a School, although I knew very little about the man himself. I used to read his education puzzles in the Newspaper and seeing him periodically on the television news without realising he had actually been to the Camp. When Mr Palmer's name came up again, I did contact him and had discussions with the ACF. In fact before they moved to Robe Street, Fitzroy, I had a full seventy member Seminar at the Camp.

L69161

I discovered that Mr Palmer lived right at my door, here in Portland. It was then that I made personal contact regarding a particular project. We discussed an environment based Victorian project that could be put into place in the Education System. Cape Bridgewater was the ideal location and Mr Palmer, who has written many books on education, understood fully what I was about. This project was originally to be called Australians All and Mr Palmer was the education brains behind the project which has now been acclaimed as excellent. I am now completely out of the Australians All project due to the fact that Mr Palmer knew of the telephone problems and although Cape Bridgewater was to be used as the base unit for the activities it was unable to be so due to the telephone problems. Mr Palmer has now contacted me in the last two days to indicate that the Australians All project has now been confirmed and that it will become a multi million

dollar project in the near future.

I would also ask you to refer to the loss of rates section of the Accountant's Report to show you the projected growth.

- (b) Australians All material, Accountant's Report. You will note that in the Australians All material there is Number 4 of the five major components of the Australians All project, Number 4 Student Incentive Projects was the initial idea in relation to Cape Bridgewater. Please also refer to the document dated 5 September 1994 signed by Robert Palmer. Please note Paragraph Two where it states that it seems strange that during 1991 and 1992 Barry Jones could not contact me in Portland to acknowledge information about the Project. You will know now why Mr Palmer took the Project away from Cape Bridgewater.

6. In relation to page 10:

- (a) State whether the Claimant was shown any and, if so, what written information and documents relating to the operation of the Cape Bridgewater Holiday Camp by or on behalf of Mrs Alma Crouch;
- (b) State whether the information and documentation referred to in (a), if any, is in the possession or control of the Claimant.
- (c) State what part of the purchase price of \$280,000 was attributable to goodwill and what part to the purchase of the land and improvements.

**Answer Question 6:**

L69162

- (a) Yes, have at hand all prior bookings before taking over.
- (b) Yes.

(c) \$35,000.00 Goodwill.

**7. In relation to page 11:**

The Claimant has stated that immediately prior to purchasing CBHC, the Claimant established an advertising campaign which involved mailing 2,000 glossy brochures to over 600 establishments. The Claimant also stated that he was told by persons in the advertising field that you should get at least 2% and normally you would work on 6% "return" on such advertising.

(a) State the name of the persons in the advertising field who allegedly told the Claimant that he should receive at least 2% and normally would receive 6% "return" on advertising which involved the mailing of glossy brochures.

**Answer Question 7:**

I spoke to Advertising Companies that I rang out of the phone book and normally received the same advice that you would receive at least 2% and normally around the 6% return. I don't know the name of those persons, simply due to the fact that I was ringing up asking about advertising and the type of advertising available and the type of return you would get on such advertising.

**8. In relation to page 11:**

The Claimant has stated that the failure of his advertising campaign which involved the mailing of 2,000 glossy brochures was due to a problem with his telephone service.

(a) State the basis upon which it is alleged that the failure of the Claimant's advertising campaign immediately prior to purchasing CBHC was due to a problem with the Claimant's telephone service.

(b) State what documentation, if any, has been submitted by the Claimant to support the allegation that the failure of the Claimant's advertising campaign immediately prior to

L69163

purchasing CBHC was due to a problem with the Claimant's telephone service.

**Answer Question 8:**

- (a) Mr Arbitrator, I must explain that it was not immediately prior to purchasing the Cape Bridgewater Holiday Camp, it was immediately prior to my wife and myself taking occupancy in February of 1988. You will note from the attached Contract Documents and the Deeds that I actually purchased and took over the Camp on the 28 December 1987. You would have realised that of course I negotiated the sale and purchase in October and November of 1987, however my wife and I did not take up residence and managementship of Cape Bridgewater Holiday Camp until February 1988.

In this regard I arranged for the Brochures to be printed in approximately December of 1987 and they were sent out during January and February. Part of our agreement with Mrs Crouch, the previous owner, was that we would place the telephone numbers on the Brochures and that she would record any enquiries we got from the same. Unfortunately none were forthcoming. It was after we became aware of our telephone problems further down the track that we realised that the failure of the advertising campaign would be due to the problem with the telephone service. I would refer you to a document submitted to yourself and attached hereto and marked 8A & B which is self explanatory.

- (b) The documentation I submit to support my case is the document marked 8A & B. You will note that this document states that the customer complaints on file are from 1987 to 1993. Obviously Mr Arbitrator, it would appear that although Telecom claim that there are no files and that there is no documentation on my known faults, this document certainly proves that there was. I would of course refer you to Chapter 6, Section 6.23 to Section 6.39 which adequately explains this Telecom administration problem.

9. In relation to page 13:

L69164

The Claimant has stated that the problems with his telephone service have continued virtually unabated since the alleged faults were first noticed in 1988.

- (a) State precisely for what periods, if any, the alleged problems with the Claimant's telephone service abated between February 1988 and August 1994.

**Answer Question 9:**

- (a) Abated is a statement used to say, that there were times when in and around June and July of 1993 that I believed the phones were better than they had been. That however was only for a two month period. I did at one time talk to Ian Campbell, through stress, I was walking out of this business, things were so bad with the customer complaints, I thought this was the only option. Except a trivial payout. Pay off debts and start somewhere else. Telecom have only to look at the reports of the RCM in April 1994. Can they honestly say they gave me a service that they themselves would have excepted in a commercial environment. Just have a look at that RCM. A disgrace to even argue the customer was wrong.

**10. In relation to page 13:**

The Claimant has stated that persons employed by the Claimant, local businesses, prospective clients, returning clients, friends and associates have all witnessed and experienced the problems the Claimant has allegedly had with his telephone service.

- (a) Provide specific details of what documentation, if any, has been submitted by the Claimant to support the allegation that persons employed by the Claimant, local businesses, prospective clients, returning clients, friends and associates have all witnessed and experienced the problems that the Claimant has allegedly had with his telephone service.

**Answer Question 10:**

L69165

- (a) In my letter of claim, reference 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2038, 2039, 2040, 2041, 2042, 2043,

2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2073, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2091, 2092, 2094, 2095.

**11. In relation to pages 16 and 17:**

The Claimant states that he "attached correspondence" from clients and other business operators in the Cape Bridgewater area which show that they also suffered severe fault conditions with their service from Telecom.

- (a) Provide details of the location in the Claim Documents of the "attached correspondence" from clients and other business operators in the Cape Bridgewater area which show that they also suffered severe fault conditions with their service from Telecom.

**Answer Question 11:**

- (a) 2093, 2108-2118 inclusive, 2075 and 2073.

**12. In relation to page 17:**

The Claimant has stated that Telecom failed to maintain Leopard records or any other fault records over a long period of time.

- (a) State the basis upon which it is alleged that Telecom failed to maintain Leopard records or any other fault records over a long period of time.
- (b) State what documentation, if any, has been submitted by the Claimant to support the allegation that Telecom has failed to maintain Leopard records or any other fault records over a long period of time.



**Answer Question 12:**

The basis upon which it is alleged that Telecom failed to maintain Leopard records or any other fault records over a long period of time is the amount of times that people complained of the faults re the above and the subsequent details I have discovered since obtaining my F.O.I. and the material supplied to me by Telecom over the period of my dispute. I would of course refer you to Page 115 of the Austel Report through to 121 inclusive and in particular Sir I would point out 6.38 with reference to Coopers & Lybrand Report "*Telecom unreasonably used its inability to adequately document faults and tests for causes as a defence against claims.*" Furthermore I refer you to Page 32 of my letter of claim where you will note that reference Page 1124 is clearly set out where Telecom admit that some files have simply disappeared or never existed. I would also ask you to read further through Page 34, 35 and 36, 37, 38.

Again, the amount of times people complained of faults re above. Palmer School Teacher, Gladys Crittenden, Lorreto Colleege Ballarat. Sister Donellon complained, Telecom in reports about MELU; if complaints had of been received prior to 16 March 1992 then this RVA may have been in existent a lot longer. We have Palmer, Crittenden, my letters of complaints to 1100 as well as Hamilton. Where are those reports. Are these people lying.

Re my letters sent to Telecom in 1988. 1998-1991 re letter from Gladys Crittenden. She rang 1100 many times, yet not on fault report.

Robert Palmer rang 1100, yet no report of these calls being on fault reports.

Coopers & Lybrand indicated the same response of which the Cape Bridgewater Camp received.

Letters I have in Ref. 2001-2158. Some of these complaints were to 1100, yet Telecom has not sent these in my Freedom of Information.

L 69167

60 Minutes, TV Program contacted 1100, William Dutton Motel Portland contacted 1100 for Jim Constandinidis, Mrs Hancock of South Melbourne. These did not go on leopard fault.

**13. In relation to page 17:**

The Claimant has stated that the complaints made to Telecom about the Claimant's telephone service have not been adequately dealt with.

- (a) Provide full details of how complaints to Telecom about the Claimant's telephone service have not been adequately dealt with.

**Answer Question 13:**

- (a) Once again I would refer you to Page 37 of my letter of claim dated 12 June 1994 and the preceding seven pages.

No records of complaints on Old ARK. No records of maintenance reports on RCM, only in 1994 was it determined all the problems had existed from cut over from old exchange which was fault ridden.

Re new submission on this. Telecom's own documentation has confirmed there were problems from day one. Austel likewise have stated same.

If my phone service had of been correctly checked back in 1991, then we would have seen the non sealing of the RCM, we would have seen the RCM at a heat problem. Telecom would have noticed a non connected alarm bell. Congestion was a know problem for a long time. It took a call to Frank Blount's Office and when he spoke to me for 10 minutes he stated he would send a team down to Cape Bridgewater and Portland to check for congestion. I ask Telecom and the Assessor was it Frank Blount that increased the availability to a 30% better congestion level.

L69168

Frankly Mr Arbitrator "I would submit the fact that we are all before arbitration indicates that these problems had not been adequately dealt with by Telecom."

14. In relation to page 34:

The Claimant has stated that the management of Telecom had no desire to admit their inability to locate and properly fix the problems that the Claimant was experiencing with his telephone service.

- (a) State the basis upon which it is alleged that the management of Telecom had no desire to admit their inability to locate and properly fix the problems that the Claimant was experiencing with his telephone service.

**Answer Question 14:**

- (a) The basis upon which is alleged the management of Telecom had no desire to admit their inability to locate and properly fix the problems that I was experiencing with my telephone service is simply the experience and the documents I have detailed on Page 34 onwards to 39 inclusive of my letter of claim. I am sure that the reading of this particular area too would leave you in no doubt as to the management of Telecom's desires of how to treat my problems. Simply explained, all of these references contained within the pages show that Telecom management failed to acknowledge the problems that I was having with my phone. If this does not indicate a lack of desire to admit to the inability to locate and properly fix the problems, then I am left wondering. You see if Telecom had the ability to locate and properly fix my telephone problem, one would consider that since we know from Telecom's own document attached to these interrogatories marked 8A & B that these problems existed since 1987 and were filed by Telecom since 1987, one would consider that the ability to locate and properly fix the problem may have occurred by at least 1988. I believe that all of the documents I refer to the in pages that I have previously mentioned demonstrate that the management of Telecom would not admit the size of the fault problems and therefore demonstrated in my opinion no desire to admit their inability to locate and properly fix the problem that I was experiencing with my telephone service.

L69169

We have cover up of lies on faults found by Telecom, yet local staff down play faults. Example 13 October 1992, ELMI was connected to RCM and registered four calls not getting to camp, yet local staff said no ELMI was connected when it was. Short duration

calls were known to be affecting this business, in 1992, 1993, evidence has been presented in second submission, yet Telecom have not produced raw data to substantiate this.

(I throw a fly in the ointment) Telecom, you produce the raw data ELMI for a period I know I can prove you covered up faults. I will side step 13 October 1992 this is a fact, you lied, lied and covered up. 28 October 1992 produce this raw data to the resource team and I shall prove calls came in as answered but they were not. Go on, prove I am wrong. If I am right, then you produce all raw data that I have asked for, including Bell Canada, If I am wrong, then let the Assessor decide and make a judgement for 1992. The ball is in your court. This was the only testing I happened to view, much was done in the RCM. We have short duration calls in 1993, show the Assessor these.

Page 17 Cape Bridgewater (1) Bruce Pendelbury. Tony Watson. Probably caused by RCM? What was caused what? by the RCM. Perhaps the Resource Team DMR should be told.

Again, ELMI testing denied the truth about this equipment being connected to these premises.

Again, Steve Richards, 1100. Read his statement, page 32 C/W (1). Telecom were using a M.C.T. even after Dave Stockdale knew that this type of device was interfering with calls being jammed, or not getting through. This equipment was supposed to be disconnected on the 9 August 1993, yet my fax line was still with this device a month later.

**15. In relation to page 38:**

The Claimant has stated that five lines service the Cape Bridgewater area and these five lines service both incoming and outgoing calls.

L69170

- (a) State the basis upon which it is alleged that five lines service the Cape Bridgewater area and that these five lines service both incoming and outgoing calls.

**Answer Question 15:**

- (a) Ray Morris has quoted this to me, if I have misunderstood then I am wrongly advised, or I have taken the bull before the gate is open. Mr Mark Ross quoted to me there were 50 people off of the RCM in letter form, yet a month latter I am told in letter form there is 80. A lot of misunderstanding has been associated with this RCM.

If I am incorrect in the five lines, I simply ask that you refer to the evidence given on my behalf of the technical aspect of this claim by Mr George Close.

**16. In relation to page 38:**

The Claimant has stated that congestion is exacerbated by the other problems and identified faults in the Portland/Cape Bridgewater area. This allegation is said to be supported by "the correspondence".

- (a) Provide details of the location in the Claim Documents of "the correspondence" which supports the allegation that congestion is exacerbated by the other problems and identified the faults in the Portland/Cape Bridgewater area.

**Answer Question 16:**

- (a) Please refer to the documents 2,001 to 2,158 inclusive where various persons both independent and known to myself identify faults and other problems in the Portland/Cape Bridgewater area. Please also refer to numbers 0001 to 1289 inclusive which shows faults other than congestion.

L 69171

**17. In relation to page 38:**

The Claimant has stated that both Telecom technical staff and management staff have dedicated themselves to covering what is an inadequate service rather than fixing their inadequacies.

- (a) State the basis upon which it is alleged that both Telecom technical staff and management staff have dedicated themselves to covering what is an inadequate service rather than fixing their inadequacies.
- (b) State what documentation, if any, has been submitted by the Claimant to support the allegation that both Telecom technical staff and management staff have dedicated themselves to covering what is an inadequate service rather than fixing their inadequacies.

**Answer Question 17:**

- (a) Once again Mr Arbitrator, the basis upon which it is alleged that both Telecom technical staff and management have dedicated themselves to covering what is an inadequate service rather than fixing their inadequacies is supported by the simple fact that from 1987 to 1993 Telecom have on file the particular problems that were never fixed. Also, contained within my letter of claim and the many references, especially Page 32 to 39 inclusive of my claim document, the areas of fusion and denial by Telecom staff and management. The fact that other staff tried to blame the equipment and also the contents of the Austel Report.
- (b) As stated on Page 5 of my letter of claim, I rely upon your understanding of the Austel Report, the Senate Committee references, the Coopers Lybrand Report and the Bell Canada International Report and therefore I would refer you to the Austel Report and I would also refer you to the references contained within Pages 32 to 38 inclusive of this document.

A letter from Dave Stockdale to Simon Chalmers, 18 January 1994. This is not an Arbitration Procedure, where the resource team can view documents, I have not had six days worth of documents which Dave Stockdale billed Telecom for, documents are missing which could have substantiated more evidence of faults associated with the RCM, ARK. This letter from Dave Stockdale is appended here as (5A).

**18. In relation to page 40:**

The Claimant has stated that his telephone service "has been affected by at least 50% of incoming calls."

- (a) State what it meant by the phrase "affected by at least 50% of incoming phone calls."

**Answer Question 18:**

- (a) I did not receive 50% of incoming calls.

Telecom's own documentation stated 50% of lost calls from Melu we also find that 50% of calls which travel the route to the RCM have been through MELU. I was complaining of RVA for three years before Telecom found the fault at Melu. The Hospital in Portland often heard a recorded message when trying to contact a Bridgewater Doctor Hitchmen. This is in Telecom notes. Telecom have and did not keep records of people like Robert Palmer from Heywood School in October 1991, Mr Crittenden also at the same period. My own letters state the same, when these were sent to Telecom from 1988 1989, 1990. We have a person in Portland, make three calls from his Motel Mr Pap and could not get through to the camp, except via 1100.

Another example, 89 complaints phone faults in the Cape Bridgewater area. This is an alarming figure. When you compare Portland to have 8% of phone complaints, which is still a poor number. Then we compare Cape Bridgewater, we see 178% this is appalling. How can anybody expect to talk against figures like this. This was in 1993. In 1991, we had 75% of Telecom technicians claiming only 5 out of 21 customers did not have phone complaints. Telecom records 1993. We have Telecom's own records Mr Smith had 9 phone complaints in just two months 9 out of 16 from others in the Cape Bridgewater area. That is over 50% of complaints. Your own Telecom data, 132999, 1100, 008 033849 can be checked against these numbers, in a 7 month period over 50 complaints.

My own customers in 1993, in excess of 48 complaints written letters those are of the complaints people had the trouble to write. Research would give you the average of for the ones that would not have taken the trouble to write.

**19. In relation to page 40 and 41:**

The Claimant has stated that out of every 10 calls that the Claimant received, 1 or 2 would be in relation to a booking enquiry and out of every 10 calls that enquired in relation to booking, normally 2 would become business customers of CBHC.

- (a) State the basis upon which it is alleged that out of every 10 calls received by the Claimant, 1 or 2 would be in relation to a booking enquiry and out of every 10 calls that enquired in relation to booking, normally 2 would become business customers of CBHC.

**Answer Question 19:**

- (a) Simply the basis is from the experience of myself at C.B.H.C. I would mention that this is possibly a conservative figure and that reflecting on this statement it may well be that I would receive three to four calls out of every ten to be a booking inquiry.

**20. In relation to page 41:**

The Claimant has stated that during the time that he has experienced the alleged problems with his telephone service, 85% of the Claimant's bookings have been return custom and therefore only 15% of the Claimant's custom has been from persons who have been successful in getting through to the CBHC on the telephone.

- (a) State the basis upon which it is alleged that during the time that the Claimant has experienced problems with his telephone service, 85% of the Claimant's bookings have been return custom.



- (b) State what documentation, if any, has been submitted by the Claimant to support the allegation that during the time that the Claimant has experienced problems with his telephone service, 85% of the Claimant's bookings have been return custom.
- (c) State the basis upon which it is alleged that only 15% of the Claimant's custom has been from persons who have been successful in getting through to CBHC on the telephone.

**Answer Question 20:**

- (a) All is located in submission from Derek Ryan, Accountant.
- (b) All is located in submission from Derek Ryan, Accountant.
- (c) All is located in submission from Derek Ryan, Accountant.

**21. In relation to page 41**

The Claimant has stated that a number of persons have gone out of their way to ensure that they could make a booking with CBHC even though they had difficulty in making telephone contact. This allegation is said to be supported by "the correspondence attached".

- (a) Provide details of the location in the Claim Documents of "the correspondence attached" which allegedly supports the allegation that a number of persons have gone out of their way to ensure that they could make a booking with CBHC even though they had difficulty in making telephone contact.

L69175

**Answer Question 21:**

- (a) Sister Donnellon from Lorreto College, Tony Speed from Hamilton High School, Tine Velthuyzen re Statutory Declaration, Jim Humphries Mt Gambier, Connie Hancock South Melbourne, Jim Constandinidis, Robert Palmer School Teacher, Haddon Community

House (Both Co-ordinators), Peter Turner, Aust. Social Centre, English Tourists, from

L69176

just about three states? 0175 tried three times before making a contact. 60 Minutes Team over three quarters of an hour, then only via 1100. These can be found in 2001-2158 reference.

Re: Reference 2001-2158.

Sister Donnellon, Lorreto College  
 Robert Palmer, Heywood Primary School  
 Gladys Crittenden, Haddon Community House  
 Cathy Lindsey, Haddon Community House  
 Tony Speed, Hamilton Secondary College  
 Mikan Media, North Balwyn  
 Vander Savill, Heywood Museum  
 Sydney Ostrow & Associates, Business Consultants  
 Julian Cress, 60 Minutes TV Program  
 Robert Walker, 1/44 Munro Street, Macleod, Vic.  
 Connie Hancock, 256 Albert Street, South Melbourne  
 Brenda White, Wallacdale, 1100 put her through  
 British Tourists, 17 July 1992, three States, 1100 put them through  
 Peter Turner, Australian Social Centre, Camberwell  
 Jim Constandinidis, Cheltenham, Victoria  
 Portland Heating, drove out to camp to make contact  
 Jim Humphries, Mt Gambier  
 Tina Velthuyzen, Statutory Declaration 1100  
 Phillis McDonough & Associates, Loss Adjusters

Telecom have letters from 1992, still not received under Freedom of Information.

**22. In relation to page 47:**

The Claimant has stated that the incident with Mr Anderson "highlights the demeanour and attitude of Telecom in respect to investigating my ongoing problems."

- (a) State what demeanour and attitude of Telecom is said to be displayed by the reported incident.

L 69177

**Answer Question 22:**

- (a) I refer you to Page 34 where I state that the management of Telecom had no desire to

admit their inability to locate and properly fix the problems of the claim he was experiencing with his telephone service. I would like you to take into account all of the references that are nominated on Page 34 and that will prove this opinion I have of the demeanour and attitude of Telecom. It is an attitude of arrogance, ignorance and that of "its your fault, not ours", plus it clearly demonstrates the problems with monopolies.

**23. In relation to page 48:**

The Claimant alleges that Telecom management have "denied, negated and trivialised the complaints" made by the Claimant.

- (a) State the basis upon which it is alleged that Telecom management has denied, negated and trivialised the complaints made by the Claimant.

**Answer Question 23:**

- (a) The basis upon which it is alleged that Telecom management has denied, negated and trivialised my complaints are all of the documentations contained within my letter of claim and other documentation I have submitted from then on in. Surely Mr Arbitrator I don't have to take Telecom over the entire episode again. Throughout my letter of claim I give examples and state where management in Telecom have denied, negated and trivialised the complaints that I have made. On Page 34 I give quite a number of references, of faults as reported, however if you read from Page 32 to 39 you will see that Telecom's internal documents, management documents stated that I was experiencing no further faults. These documents show that in fact at least 104 problems were reported during that time. If that is not a denial, a negation or a trivialisation, then perhaps someone could explain to me what is. Furthermore, I refer you to Page 37, the classic I would submit to Mr Jim Holmes about the denials, the negations and trivialisations.

L69178

The writer to Telecom Management, who fabricated a story that people, customers of the CBHC were getting engaged signals all the time when in fact the Camping Association of Victoria stated nothing of the kind. (Refer documents submitted to Arbitrator in letter

form).

Bruce Pendlebury states not to check Smiths complaint, probably in RCM, Page 17 Cape Bridgewater Submission.

The writer of a Telecom document, who said the ELMI testing was not connected to the CBHC on the 13 October 1992 when it was. I complained to Commercial Melbourne. (Cape Bridgewater Submission Part Two August 1994).

(Cape Bridgewater Submission One Page 32 August 1994).

Rosanne Pittard told lies to Freehill Hollingdale & Page, that I only had 9 faults on my line from January 1993 to August 1993. This can be substantiated by checking Telecom 13999. 1100, 008 033849.

Re-video clip 1100 Telecom operator. Told lies. (Arbitrator and Telecom have a copy).

Steve Richards 03-720 6646 another fault operator, treated C.O.T. and myself with contempt. Had it not been for C.O.T. Coopers & Lybrand confirm the attitude of the operators.

**24. In relation to page 48:**

The Claimant alleges that his phone has been unlawfully tapped and the confirmation of that fact was received by the Claimant from Detective Superintendent Penrose of the Australian Federal Police.

L69179

- (a) State the date and circumstances and substance of the disclosure by Detective Superintendent Penrose that the Claimant's telephone was allegedly unlawfully tapped.

**Answer Question 24:**

- (a) This matter is currently under investigation by the Federal Police. In the interest of fair justice I believe that I should not further comment apart from what I have already stated that it is true that I was told this by Detective Superintendent Penrose. If the Australian Federal Police are prepared to disclose the details of their investigation and of their dates of conversations with myself, then Telecom will be able to obtain the same.

L69180

**TECHNICAL REPORT OF GEORGE CLOSE & ASSOCIATES****1. In relation to Section 2, page 2:**

The Report states that "Telecom records are not available for this period."

- (a) State which period for which the Telecom records were not available.

**Answer:**

- (a) February 1988 to 27 June 1991. (The unmanned exchange was replaced in August 1991 by the R.C.M.).

**2. In relation to Section 2 page 4:**

The report states that "tests showed unacceptably high error rate.

- (a) State which tests and where in the Claim Documents are details of the tests which show the alleged high error rate.

**Answer:**

The error rates, substandard installation and failure to program the alarm system are fully detailed in Section 5, with unqualified admissions on all subjects in Telecom inter office memos.

L69181

27

**3. In relation to Section 6, page 1:**

The Report states that "Random detailed call data reports were analysed..."

- (a) Provide specific details of which call data was selected, on what basis and over what period of time.
- (b) Provide specific details of the methodology used to analyse the random detailed call data.

**Answer:**

- (a) All of the raw data and collated results provided under F.O.I. are included in Section 6 (44 pages). Dates, times and call classes are clearly designated.
- (b) Incoming answered (400) plus incoming unanswered (88) = TOTAL IN/C

Incoming unanswered divided Total Incoming

$$= \frac{88}{488} \times 100 = 18\%$$

Incoming answered with less than 8 secs answer time

$$= \frac{23}{400} \times 100 = 5.75\%$$

L69182



**CLAIM DOCUMENTS SUBMITTED BY THE CLAIMANT ON 18 AUGUST 1994**

1. In relation to the document (untitled and undated) which contains a table consisting of five columns and a further table which the Claimant has stated contains an example of some of the "Raw Data" which Telecom refused to give to Cape Bridgewater Holiday Camp during this Arbitration Procedure:
  - (a) Provide an explanation of how this document is relevant to the documentation submitted by the Claimant.
  - (b) Provide details of other examples of the type of "Raw Data" which Telecom has refused to give Cape Bridgewater Holiday Camp during this Arbitration Procedure.

**Answer Question 1:**

- (a) It is relevant to the extent that the Raw Data I believe proves technical issues. I believe production of all the Raw Data would benefit my claim.
- (b) If Telecom produces Raw ELMI Data over a period of time, two weeks in May 1993 and 13 October 1992 to 30 October 1992. As I was at the Camp at the time of 13 October 1992 and Telecom lied about this monitoring being in use. I can show the Assessor four calls in a one day period which I did not receive. We go to the 28 October 1992. Produce the full Raw Data for this day and I will show how the ELMI registers in coming calls as incoming, yet they were not answered at the Camp.

L69183

All Raw Data from May to July 1993. Raw Data which is on Telecom fault records. Check and you will see many CCAS and CCA7 data, which have not been provided.

A letter to Simon Chalmers from Dave Stockdale 11 January 1994, clearly shows Telecom withheld information from my resource team (see attachment forwarded direct to

Arbitrator ).

This information would have produced evidence of calls not being answered at the Camp, yet Telecom has suggested otherwise.

Mr Steve Black informs me there were no MCT on my line from August 1993, I have proof that there was, Telecom's own technical staff has said this interfered with the calls coming into the Camp, yet Telecom still had this device in operation. Data will show calls not getting through. CCAS Data miss calls, this can be checked by tracing Raw Data.

Telecom have not produced Bell Canada Data. Three lots of calls coming into the same PTARS.

L69184

## SCHEDULE 2

## SMITH - REQUEST FOR PRODUCTION OF DOCUMENTS

1. Documents relating to the planning and expectations for, and the purchase of, the Cape Bridgewater Holiday Camp business.

The documents requested under this category are:

- (a) copies of any documents relating to the purchase by Mr Smith of the Cape Bridgewater Holiday Camp ("CBHC"), including any sale material prepared by the previous owner, any advertisements run by the previous owner, any historical trading results of the CBHC business prior to the purchase by Mr Smith and any list of forward bookings of the CBHC at the time it was purchased by Mr Smith;
- (b) copies of the contract of sale in relation to the purchase by Mr Smith of CBHC;
- (c) copies of loan documents relating to the bank finance and solicitors finance (Moore's) obtained by Mr Smith when purchasing CBHC.

*Grounds*

These documents are required to:

L69185

- I. enable Telecom to determine whether the expectations of Mr Smith when purchasing the CBHC were reasonable (for example, the allegations of up to 40% growth per year) and whether Mr Smith undertook sufficient investigations to ensure the business was a viable proposition;
- II. enable Telecom to determine the nature and financial performance of the business prior to Mr Smith's purchase which is critical for the purposes of comparison with Mr Smith's

business and financial performance;

- III. enable Telecom to verify the exact date that the CBHC was sold to Mr Smith and to ascertain the nature of the purchasing party or parties (for example, company, trust or partnership);
- IV. enable Telecom to verify other statements made by Mr Smith regarding the purchase of CBHC.

**Answer Question 1:**

Documents (a), (b) and (c) are provided.

2. Documents relating to the structure of the entity through which Mr Smith managed CBHC.

Documents requested under this category are:

- (a) copies of the governing documents of the entity or structure through which Mr Smith managed CBHC (for example, the Partnership Agreement if the business was ever run as a partnership, the Trust Deed if the business was ever run as a trust, or the Memorandum and Articles of Association if the business was ever run as a Company).

**Grounds**

These documents are required to enable Telecom to determine if the CBHC business was operating within its established legal confines.

**Answer Question 2:**

L 69186

- (a) These documents are not applicable. No structure document exists in relation to CBHC.

**3. Documents relating to the finances of the CBHC business.**

Documents requested under this category are:

- (a) copies of the financial statements (including detailed balance sheets and profit and loss statements) of the CBHC business (however it was structured) for the financial years ended 30 June 1989, 1990, 1991, 1992 and 1993, and year to date results for the 1994 financial year;
- (b) copies of the banking records (including bank statements and cash receipts book) of the CBHC business for the entire period of Mr Smith's claim.

**Grounds**

These documents are required:

- I. to enable Telecom to determine the performance of the CBHC business while operated under Mr Smith's management which is necessary to assess the claim for compensation made by Mr Smith;
- II. to enable Telecom to verify the sales figures included in both the financial accounts and the tax returns of the CBHC business which are used as a support for the quantification of the businesses performance.

**Answer Question 3:**

L69187.

- (a) Copies of the financial statements of CBHC business for the financial years until 1994 are in the possession of Derek Ryan, Accountant.
- (b) I cannot find bank statements, however I will give permission to the Arbitrator to access my bank documentation from the Bank if necessary. You should be able to verify with Schools and persons who booked accommodation re the receipts. I would also state that

all purchases (virtually) were made by cheque and therefore the bank statements, cheque statements will avail Telecom of verifying the sales figures included in the financial accounts and tax returns.

4. **Documents relating to the advertising and promotion of the CBHC business.**

Documents requested under this category are:

- (a) copies of all advertisements promoting the CBHC including a copy of the glossy brochure that was distributed by Mr Smith immediately prior to the purchase of the CBHC;
- (b) copies of any documents containing details as to where and how such brochures were distributed;
- (c) copies of any other documents relating to advertising or promotional expenditure in relation to the CBHC from January 1988 to the present.

**Grounds**

These documents are required:

- I. to enable Telecom to verify advertising has existed to the extent alleged by Mr Smith;
- II. to enable Telecom to analyse potential response rates to advertising in relation to CBHC which may impact on any loss allegedly suffered by Mr Smith;
- III. To enable Telecom to verify that the phone numbers contained in advertising for CBHC were accurate.

L69188

**Answer Question 4:**

- (a) All the advertisements have been sent to the Assessor apart from a copy of the Glossy Brochure which were fully distributed and no copy can be found.
- (b) There were no documents containing details as to where and how such Brochures were distributed, they were simply mailed by myself.
- (c) All other documents have been provided to the Arbitrator.

**5. Documents relating to the finances of Mr Smith.**

Documents requested under this category are:

- (a) Copies of the tax returns of Mr Smith and for CBHC for the entire period of his claim.

**Grounds**

These documents are required to enable Telecom to analyse the business and financial performance of the CBHC operation.

**Answer Question 5:**

- (a) Submitted in the Derek Ryan Report.

L69189

**6. Documents relating to the fault history of CBHC's telephone service.**

Documents requested under this category are:

- (a) copies of all documents which contain contemporaneous notes made by Mr Smith about





alleged faults with his phone service, including complete copies of Mr Smith's diaries which allegedly contain such contemporaneous notes.

**Grounds**

These documents are required to enable Telecom to verify that Mr Smith took contemporaneous notes of the alleged faults with his phone service and to assess the extent and substantive value of such notes.

**Answer Question 6:**

- (a) The relevant diary notes were submitted on the 18 August 1994. The complete set of diary notes are held by Freemans Sunshine Coast. These documents contain privileged information and due to the lack of security in Telecom I will not provide a full copy of the diaries. I will however provide a copy with suitable deletions, however I cannot afford the cost of photocopying.

**7. Documents relating to the sale of the CBHC.**

Documents requested under this category are:

- (a) copies of all documents relating to the recent sale by Mr Smith of CBHC including any advertisements run by Mr Smith, any historical trading results provided by Mr Smith to prospective purchasers and any list of forward bookings at the time of sale;

**Grounds**

L 69190

These documents are required to enable Telecom to check the basis of calculations of losses alleged in the report of DM Ryan Corporate (for example, the alleged loss of capital value in the business).

**Answer Question 7:**

(a) Incorrect grounds, there is no recent sale of CBHC.

8. **The booking records of the CBHC operation from January 1988 to the present date showing bookings received by CBHC.**

**Grounds**

These documents are required to enable Telecom to assess the level of bookings received at the CBHC and the financial performance of the CBHC operation. These documents are directly relevant to the Claimant's quantification of alleged loss.

**Answer Question 8:**

The booking records of the CBHC operation from 1988 to the present date showing the bookings received by CBHC are in the tax returns.

Appendices 2-1, 3-1, 4-1, 5-1, 6-1, 7-1 and 8-1 provide this information. Source documents are available from Mr A Smith however it took a considerable amount of time to piece these source of documents together to obtain the annual summaries.

9. **Documents supporting the calculations and assumptions made by the report of DM Ryan Corporate (the "accountant's report") in relation to losses allegedly incurred by Mr Smith as a result of an allegedly inadequate phone service.**

Documents requested under this category are:

L69191

(a) copies of any documents that support the claim on page 2 of the accountant's report that the CBHC business could have been rejuvenated into a strong and viable business within

18 to 24 months of purchasing it.

*Grounds*

These documents are required to enable Telecom to assess whether the losses projected in the accountant's report are reasonable.

**Answer Question 9:**

- (a) Documents supporting the calculations and assumptions made in the report of DM Ryan Corporate in relation to losses allegedly incurred by Mr A Smith.

There is are no documents to support the statement. It is an opinion expressed based on 27 years experience in dealing with businesses and the people running those businesses.

10. **Copies of the plans, quotations and Council permits referred to on page 3 of the Accountant's report which were allegedly used in calculating the maximum level of occupancy.**

*Grounds*

These documents are required to enable Telecom to assess the validity of the Accountant's estimate of the maximum level of occupancy.

**Answer Question 10:**

Documents supplied to Arbitrator.

L69192

11. **Copies of any documents which support the use on page 5 of the Accountant's report of 60% as an achievable occupancy figure.**

*Grounds*

These documents are required because the 60% occupancy figure underpins a major part of the claim and therefore needs to be substantiated.

**Answer Question 11:**

Copies of any documents which support the use on Page 5 of the Accountant's report of 60% as an achievable occupancy figure.

Refer to the analysis in the DMR report to determine how this figure was determined. As a check it is worthwhile noting the "Campsite night occupancy rate" in the report prepared by the Camping Association of Victoria. Full details of this document are referred to at the bottom of Page of the DMR report.

12. **Copies of any documents (including written calculations) which support the average rate per occupant of the CBHC referred to on page 5 of the Accountant's report.**

*Grounds*

These documents are required to enable Telecom to determine the accuracy of the alleged average rate and compare that rate against statistics from recent surveys.

**Answer Question 12:**

L69193

Copies of any documents which support the use on Page 5 of the Accountant's report of 60% as an achievable occupancy figure.

Refer to the analysis in the DMR report to determine how this figure was determined. As a check it is worthwhile noting the "Campsite night occupancy rate" in the report prepared by the Camping Association of Victoria. Full details of this document are referred to at the bottom of Page 6 of

the DMR report

13. **Copies of any documents (including written calculations) which support the 25% variable cost component referred to on Page 5 of the Accountant's report.**

*Grounds*

These documents are required because the 25% variable cost estimate underpins a major part of the claim and therefore needs to be substantiated.

**Answer Question 13:**

Refer to Appendix 11 of the DMR report.

14. **Copies of any documents which support the claim on Page 7 of the Accountant's report that revenue should be increased by 15% in 1990 to 1993 and 25% 1994 due to the loss of rates able to be charged by the CBHC.**

*Grounds*

These documents are required because the increase in revenue underpins the loss of rates portion of the claim and therefore needs to be substantiated.

**Answer Question 14:**

L69194

Refer to the analysis in the DMR report to determine how this figure was determined.

15. Copies of all plans, documents and financial projections for the proposed Tea Room/Restaurant referred to on Page 8 of the Accountant's report and any documents relating to how the proposed development was to be funded.

*Grounds*

These documents are required to enable Telecom to assess the validity of the claim relating to the proposed Tea Room/Restaurant.

**Answer Question 15:**

Refer to the analysis in the DMR report to determine how this figure was determined. The development was to be funded by a bank loan but this was not approved.

16. Copies of any documents (including industry information) which support the alleged 75% gross profit of a Tea Room/Restaurant referred to on page 8 of the Accountant's report.

*Grounds*

These documents are required to enable Telecom to assess the validity of the claim relating to the proposed Restaurant/Tea Room.

**Answer Question 16:**

L69195

Gross profit percentages were from Mr A Smith costings. The Herbert Adams Bakery prices for purchased produce recommend a margin of between 65% and 74% (The Food Shop Journal Vol. 24 No 5 June 1994 - The Official Journal of The Retail Confectionery and Mixed Business Association Inc.) and for scones, cakes tea and coffee made on site you would expect to achieve a lot higher margin than for purchased goods.

17. **Copies of all plans, quotations and other documents which support the claim contained on pages 9 and 10 of the Accountant's report relating to the acquisition, repair and erection of buildings as planned.**

*Grounds*

These documents are required to enable Telccom to assess the validity of the claim for losses relating to additional costs of acquiring facilities.

**Answer Question 17:**

Mr A Smith provided all of the information.

18. **Copies of ownership documents and sale documents to support the market values used on Page 12 of the Accountant's report in relation to the claim for loss of capital gains on assets sold (for example, invoices, bank deposits, sale notes, contracts and so forth).**

*Grounds*

These documents are required to enable Telecom to assess the validity of the claim for loss of capital gains on assets sold.

**Answer Question 18:**

Copies of documents will be forwarded to the Assessor as soon as they are available.

L69196

19. **Copies of invoices for all prior advertising campaigns run by Mr Smith in relation to CBHC and copies of quotes for the proposed advertising campaigns mentioned on Page 13 of the Accountant's report.**

**Grounds**

These documents are required to enable Telecom to assess the validity of the claim for losses relating to advertising costs.

**Answer Question 19:**

To be forwarded to Arbitrator direct.

- 20. Copies of any documents relating to the details and calculations of the quantum of loss in relation to the pain and suffering allegedly experienced by Mr Smith referred to on Page 14 of the Accountant's report.**

**Grounds**

These documents are required to enable Telecom to assess the validity of the claim for pain and suffering.

**Answer Question 20:**

There are no documents to support the statement. It is an opinion which was expressed based on 27 years experience in dealing with people together with the knowledge of the stress and trauma which I have seen Mr A Smith suffer over the period of time in which I have known him and his discussions with me of his personal problems which he has endured over the last 6 years.

- 21. Copies of any documents which supports the claim for travel costs incurred by Mr Smith referred to on page 14 of the Accountant's report, including the exact reason for each trip, travel diaries, invoices and so forth.**

L69197





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