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DRAFT

28 April 1995

Dr Gordon Hughes
Hunt & Hunt
Solicitors
GPO Box 1533N
MELBOURNE VIC 3000

By Facsimile: 614 8730

Dear Gordon

Fast Track Arbitration - Smith

I am becoming increasingly concerned at the delays in the finalisation of this matter.

The Resource Unit tells me that it expects its technical and financial reports to the Arbitrator will be released today to the parties. The parties will then of course have the right to a reasonable period within which to comment on these reports. The extent of this period would of course be in your discretion.

However, I understand you are to present a paper in Greece in mid-May.

I would expect the Award would be delivered prior to your departure.

It would be unacceptable to contemplate the delivery of the Award being delayed until after your return.

Could you please contact me to discuss.

Yours sincerely

DRAFT
Warwick L Smith
Ombudsman


Hunt & Hunt
LAWYERS

23 January 1996

Our Ref: GLH
Matter No:

Mr J Pinnock
Telecommunications Industry Ombudsman
321 Exhibition Street
MELBOURNE Vic 3000

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Michael S. Casick

Incorporating
James Abbot & Co. Ltd

Dear Mr Pinnock

INSTITUTE OF ARBITRATORS - COMPLAINT BY ALAN SMITH

I enclose copy letters dated 18 and 19 January 1996 from the Institute of Arbitrators Australia. I would like to discuss a number of matters which arise from these letters, including:

- (a) the cost of responding to the allegations;
- (b) the implications to the arbitration procedure if I make a full and frank disclosure of the facts to Mr James.

Yours sincerely


GORDON HUGHES

Encl.
cc P Bartlett

Melbourn

Sydney

Sydney

Brisbane

Canberra

Newcastle

Perth

Adelaide

Darwin

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 Francis Abourizk Lightow

15 February 1996

Our Ref: GLH
Matter No: 5122795

Mr John Pinnock
Telecommunications Industry Ombudsman
321 Exhibition Street
MELBOURNE Vic 3000

Dear Mr Pinnock

ALAN SMITH

I enclose a draft letter which I propose forwarding to the Institute of Arbitrators Australia in response to the complaint by Mr Smith.

I would appreciate your confirmation that there is nothing in the proposed letter which would embarrass your office or jeopardise the current arbitrations.

|| You may consider it appropriate for you to provide an independent letter of support. This is of course a matter for your discretion.

I await your response.

Yours sincerely


GORDON HUGHES

Encl.

*Enclosed with this
to speak to Gordon re 3 matters X
letter in support to be prepared.
GJH*

melbourne

sydney

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15-E



FERRIER HODGSON CORPORATE ADVISORY

STRICTLY PRIVATE & CONFIDENTIAL

BY COURIER

18 April 1995

Mr Warwick Smith
Telecommunications Industry Ombudsman
Ground Floor
321 Exhibition Street
MELBOURNE VIC 3000

Dear Sir,

RE : Fast Track Arbitration Procedure - Resource Unit
Arbitrations: Smith, Garms, Gillan/Valkobi

I acknowledge receipt of your letter of 23 March 1995. The matters raised in your letter were discussed at a meeting with Sue Hodgkinson and me on Tuesday, 4 April 1995. I now formally reply to your letter and update you on further developments since our meeting.

I note from the tone of your letter that you are somewhat concerned as to the apparent time frames within which you, as Administrator of the Fast Track Arbitrations, can expect finalisation of the above named arbitrations.

You have requested advice as to when, in terms of weeks, the Resource Unit envisages being in a position to provide its integrated financial and technical assessments to the Arbitrator for the above arbitrations. I now respond accordingly in relation to each:

Smith

The Resource Units role is almost complete, but more work is to be done to tidy our reports (both technical and financial) to a form suitable for submission to the parties by the end of April 1995.

The Resource Unit has completed a preliminary review of the financial material contained in the claim, defence and reply. The interim report has been drafted based on the assumption that technical faults did occur.

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

Pra
14/4/95
We to discuss

15-F



No further questions are anticipated from the Arbitrator. An important meeting took place between the Resource Unit and the Arbitrator on 10 April 1995 over the need to manage the issuance of Resource Unit reports.

Lane Telecommunications have commenced their detailed review in mid March and now have completed their draft interim report (on 6 April 1995). This report is subject to review and amendment by Paul Howell of DMR Inc prior to issuance.

Garms

The Resource Unit has commenced its review of the financial issues. A preliminary report is envisaged to be finalised within three weeks. Lane Telecommunications have commenced their review and, at this stage, they estimate that their preliminary review will be completed within one month (mid to late May) for review by Paul Howell of DMR Inc.

Gillan/Valkobi

The Resource Unit has commenced its review of the financial issues. We envisage that our preliminary report will be finalised within three weeks. Lane Telecommunications have commenced their review and, at this stage, they likewise expect their preliminary review will be completed within one month for review by Paul Howell of DMR Inc.

Resource Unit (including Technical Support)

I note your comment that the Resource Unit reports issued to the Arbitrator must also be provided to the claimant and Telecom for their comment. We agree that this may prolong the process further, but the fact is that this is a requirement of the fast track arbitration. The Smith report will be available imminently and subsequent reports can, with the benefit of experience be expected to proceed more expeditiously.

I also advise that Mr Paul Howell, Director of DMR Inc Canada arrived in Australia on 13 April 1995 and worked over the Easter Holiday period, particularly on the Smith claim. Any technical report prepared in draft by Lanes will be signed off and appear on the letterhead of DMR Inc. Paul Howell anticipates completing the Smith technical report by the end of April. What?

Further, I advise that additional resources have been applied to the assignments and work on each has been undertaken contemporaneously. We have technical staff and financial support staff working on Garms and Gillan (in parallel) and visits to Brisbane are anticipated by the end of April 1995.



Arbitration

I understand that Dr Hughes will contact you directly (in your capacity as Administrator of the Fast Track Arbitration Procedures) on any legal procedural issues associated with the progress of the Arbitrations.

Conclusion

In conjunction with Dr Gordon Hughes, we are fast tracking the procedure with the aim of achieving a decision that has regard for due process and investigation.

In closing, I hope that it is possible for you (in your capacity as Administrator for the above referred Fast Track Arbitrations) to continue in that position until we can resolve these claims.

It is unfortunate that there have been forces at work collectively beyond our reasonable control that have delayed us in undertaking our work. It is only now, following the review and acceptance of our Resource Unit (including acceptance of Lane Telecommunications by the COT claimants), that we are in a position to analyse the merits (including technical aspects) of each claim.

Do not hesitate to contact the writer directly on (03) 629 8855.

Yours faithfully,
FERRIER HODGSON CORPORATE ADVISORY

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

JOHN RUNDELL
Project Manager - Resource Unit
Associate Director

Encl.

c.c. Mr Peter Bartlett, Partner, Minter Ellison Morris Fletcher.
Dr Gordon Hughes, Arbitrator, Managing Partner, Hunt & Hunt.

Campbell, Ian

From: Campbell, Iain
To: Campbell, Ian
Subject: FW: Gordon Hughes
Date: Thursday, 3 March 1994 9:16AM

DELIVERED TO IAIN CAMPBELL INSTEAD OF IAN CAMPBELL

From: Blount, Frank
To: Black, Stephen
Cc: 'Mason, Deirdre'; Zoi, Charlie; Vonwiller, Chris; Burdon, Steve; Campbell, Ian
Subject: RE: Gordon Hughes
Date: Thursday, 3 March 1994 7:21AM
new; Pari:

Stephen:

I am more and more of the view that some form of summit meeting be held between Warwick Smith, AUSTEL (Robin Davey), Gordon Hughes, David Krasnostein, me, and perhaps others to put this "foolishness" behind us.

Please advise.

Frank

From: Black, Stephen
To: Blount, Frank
Subject: FW: Gordon Hughes
Date: Wednesday, March 02, 1994 10:50PM
Priority: High

Frank

Copy for your information

Steve Black

From: Black, Stephen
To: Krasnostein, David
Cc: Parker, Harvey; Rizzo, Paul
Subject: Gordon Hughes
Date: Wednesday, 2 March 1994 10:48PM
Priority: High

David

As discussed it appears that Gordon Hughes and Peter Bartlett are ignoring our joint and consistent message to them to rule that our preferred rules of arbitration are fair and to stop trying to devise a set of rules which meet all the COTS requirements and with which we might agree if we were prepared to waive further rights.

Whilst at a personal level I am of the view that we should walk away I do not believe that this option suits Telecoms wider strategy in that it would appear to lead directly to a senate enquiry.

My course therefore is to force Gordon Hughes to rule on our preferred rules of arbitration.

I am having our preferred rules prepared now based on Bartlett's latest rules plus our amendments. I have also initiated an independent and authoritative view on these rules, which I expect will advise that these rules are fair. I will then send these directly to Gordon Hughes with a direct and blunt request to rule on whether they are fair.

I expect this action to be finalised by tomorrow midday.

Steve Black

D01166

15-G

Internal Memo



To MR DAVID KRASNOSTEIN
GENERAL COUNSEL

COMMERCIAL AND CONSUMER
CUSTOMER AFFAIRS

From STEVE BLACK
GROUP GENERAL MANAGER

8/242 EXHIBITION STREET
MELBOURNE
VICTORIA 3000
Australia

Subject

Telephone (03) 634 5736
Facsimile (03) 634 8441

Date 7 April 1994

File

Attention

*Steve/Paul
Agreed.
David*

15-H

David

Peter Bartlett tells me that Graeme Schorer is putting pressure on Gordon Hughes to read the Austel Report and see if it contains anything which would necessitate a change in the Arbitration Rules. I told Mr Bartlett to tell Dr Hughes that Telecom would seriously object to such a course of action.

Dr Hughes is now convinced that his proposal to have a joint meeting to finalise the rules tomorrow is useless. I have told Mr Bartlett that the only basis on which Telecom would attend a meeting is to formally sign the rules - no further discussion or negotiation to be entered into.

Dr Hughes seems to have dug a bit of a hole for himself.

Mr Bartlett is urging Dr Hughes to notify COTS that he has decided that the rules are now finalised and fair and reasonable and must be signed by COTS and Telecom tomorrow. Warwick Smith supports him in this. Dr Hughes has agreed to talk to Mr Schorer in an attempt to convince him to sign the rules tomorrow. I understand that Amanda Davis is ready to sign.

Paul Rumble
NATIONAL MANAGER
CUSTOMER RESPONSE UNIT

Maybe a letter to Robin Dawey, T10 & Hughes would be appropriate? ie. Rules now agreed to by Telecom, we understand they satisfy final points of Hughes, T10 & Bartlett, we await sign.