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Relevant information file
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P-3 exhibit 8
to exhibit 9

Exhibit 8
Alan Smith's letter of claim dated
7th June 1994
submitted 15th June 1994

CAPE BRIDGEWATER

Assessment Submission

Letter of Claim.

7 June, 1994

Cape Bridgewater

12 June 1994

Dr. Gordon Hughes,
Arbitrator,
Fast Track Procedure,

Dear Sir,

Please accept this correspondence further to my statement of claim in regard to the Fast Track Arbitration Procedure.

EXPLANATION OF LETTER OF CLAIM

Dr. Hughes, I would like to inform you of certain problems that I have experienced in preparing this claim for submission to yourself. Unfortunately, I have not had the time that I felt necessary to make the preparations that I would have liked. I thank you for your allowing myself an extension until the date of submission - 15th June, 1994.

12 June 1994

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Dr. Hughes, I would like to inform you of certain problems that I have experienced in preparing this claim for submission to yourself. Unfortunately, I have not had the time that I felt necessary to make the preparations that I would have liked. I thank you for your allowing myself an extension until the date of submission - 15th June, 1994.

Dr. Hughes, my job has been made so more difficult in that I am a Chef by occupation and have for the last four years been virtually running a holiday camp by myself (when I have clientele). I do not have at my disposal the secretarial staff, the office equipment or the assistance to be able to prepare a claim as I would have liked. I have been able to employ a Research Assistant, however my finances are such that I have had to go without in order to just pay that Company \$1,000.00. In this respect, I have not had at my ready disposal the secretarial staff and office equipment that I considered necessary to submit the claim.

I have, as you will note from this claim, been able to engage an Accountant, who has kindly agreed to my not financially reimbursing him until such time as this procedure reaches finality. I am also fortunate to have a Technical Person, Mr. George Close, who has given me preliminary advice in respect to his assessment of my telephone faults as required by this claim.

You will be well aware that I had to apply for an extension in the preparation of this report simply due to the fact that Telecom has not supplied myself with all of the documentation contained in my Freedom of Information application dated 23rd November, 1993. I would request that you exercise your powers under the procedure to have Telecom supply me with all of the documents from my original Freedom of Information, which numbered in excess of 9,000. You will most likely be aware of the background of the Freedom of Information applications and the partial compliance thereof by Telecom. Therefore, you will also know that Telecom has as recently as the 8th June, 1994, corresponded with myself and indicated that they recognize that the payment of the outstanding Freedom of Information charges for the remaining 6,600 pages would cause me financial hardship. Telecom (Ref p 2107).

I have received a letter from George Close and Associates, the company preparing a Technical Report on my behalf in respect to quantifying the amount of loss of telephone service I have experienced. Mr. Close has indicated that he would be in a better position to quantify the same if he had access to all of the documents in the Freedom of Information. Mr. Close has asked that we obtain a complete list of Telecom Service Codes and meanings including the following from Fault History Headings;

TRS/SID	ROT	CLEARs	TSTR	RMN
BYO	NTU	JOOM	RB	CBWR
AND	NTW	TOOE	RSA	PORD
FNB	IMW	XHLD	BB	RC
TBO	TMW	XOOY	DG	
	RWT	JOYK		
	EZW	TOOX		
	IZW	JOY		
	EIW			

Mr. Close also requests that Telecom supply an analysis of support for TIMS, TBAX, ELMI for all periods of this claim, the number of trunk lines between Portland and the Cape Bridgewater RCM, and the number of subscriber services feeding off the Cape Bridgewater RCM.

You will appreciate from your decision to previously allow myself an extension that I have had an extremely short period of time in which to furnish this claim. I received part of Freedom of Information only 6 weeks ago. This difficulty has been exacerbated by the continuing problems that I am experiencing with the Management of Telecom, the fact that my phone service is still operating at a totally deficient level and also the fact that I am now financially embarrassed. You

will note correspondence from Mr. Black, Group General Manager Telecom, dated 9th June, 1994, which confirms my financial position.

I certainly do not and cannot propose to outline in this report every single problem or fault that I have experienced. The simple fact is that Telecom have stated that they have no records for a significant part of this claim (Ref p 1289). I have some records and of course I rely upon those to furnish this claim. It would virtually, in my submission, be an impossible task to isolate every point in this claim, investigate it and then determine what effect that has had on my business.

I believe that the material that I present to you should be taken and read as part of a total claim with each document playing a role in completing the jigsaw.

This letter is intended to supply yourself with my background, the background to Cape Bridgewater Holiday Camp, the background and extent of my experiences with my phone service and with Telecom, the problems that I have experienced because of my telephone service and with an understanding of the complete problem. This letter is then supported by the attached documents (Ref Pp 0001 - 1289) which are fault supporting documents. Further documents (Ref Pp 2001 - 2158) are letters from persons who have experienced my particular problems and are either business clientele, friends and associates. Also included in this particular series of documents are contemporaneous notes I have made and also surveys or correspondence I have received from persons who have experienced their own telephone service problems in the Portland/ Cape Bridgewater area.

Once again, I stress that it is not possible in the time frame for me to address every single

document as I present it to you. I would ask that you read every document and place it into the context of the overall picture in respect to this claim. Also to be attached to this claim will be the Technical Report of Mr. Close and a financial analysis from my Accountant, Mr. Derek Ryan of Melbourne.

I rely upon your understanding of the Austel report into the COT cases, the Senate Committee References in relation to this matter, the Coopers and Lybrand report and the Bell Canada International report in respect to the monitoring/testing of fault/problem in the network. I refer you in particular to Austel document 93/507 dated 9th December, 1993, where Cliff Mathieson of Austel indicated that the BCI audit did not extend to an equally significant part of "the network", namely the customer access network. That is to say that I rely upon all advices from the above reports that Telecom's testing may not have been able to identify the problems that I was experiencing.

As you will no doubt begin to understand, once you have navigated all of the documentation that I have supplied, this is certainly the case. Telecom have still not been able to locate identify and solve the problems that I am experiencing with my telephone service. I also rely upon the fact that Telecom on three separate occasions had guaranteed my service, (see Ref Pp 1286 - 1288) to meet normal network standards. You will note in correspondence of the 18th September, 1992, that Telecom confirm that their Charter is a commitment to providing a quality service for all customers and this commitment is supported by a Technical Organization capable of responding quickly and efficiently to a service difficulty should there be a need. This would certainly in my contention be a subject that you may wish to address after reading all of the documentation supplied herewith.

If you require any further assistance with the understanding of this claim, please do not hesitate to contact myself.

HISTORY OF CLAIMANT:

My full name is Alan Smith, I am currently the owner/manager of Cape Bridgewater Holiday Camp and Convention Centre, RMB 4408, Cape Bridgewater, Portland, Victoria, 3305. I was born on the 7th May, 1944, at London in England. I came to Australia in June of 1962 when I was 18 years of age. At the time of first coming to Australia, I arrived as an employee on a ship.

My education background was to the fourth form, which is equivalent to leaving school in Australia when 15 years of age. I initially gained employment after completing a 12 week course of catering, I then went to sea as a catering attendant/catering stewards boy with a catering certificate called the Board of Trade Catering Certificate. This certificate was obtained by myself in 1962 at the Sharpness Training School in England. From the period of gaining employment at 15, I then spent 3 years at sea and had reached positions on various ships as senior assistant steward, chief cook, second cook and baker, butcher. During that time I had gained a certificate in the catering industry which recognized my abilities and allowed me to gain employment at virtually any catering institution.

Upon arriving in Australia, I took up a job as an industrial cleaner with C & I Cleaning, of Melbourne. I kept this position for 12 months. I then went back to the catering industry and I cooked in various Hotels and at mining sites.

I then went back to sea and I worked as assistant cook on the Princess of Tasmania for approximately 2 years and during that 2 years I became the chief cook. During periods of leave whilst I was employed on the Princess of Tasmania I also would cook at various holiday destinations such as Mt. Kosciusko and for the larger Hotels and I would attend to private functions. I did this employment through the VIP Staff Agency in Swanson Street, Melbourne, and I have been an associate of that company for approximately 25 years. I have also worked for the Japanese Embassy performing various catering work.

I then spent 12 years travelling on ships as either the cook, the head chef, the second cook, senior second cook or second cook, baker and butcher. The various ships that I worked on were the Princess of Tasmania, Queen of Tasmania, Empress of Australia, Australian Freighter, Conference Wak, P & O Arcadia, P & O Orsova, P & O Canberra, Port Linn and Littleton.

I was married in 1969 to Lamita Fay Smith, I had two children from my marriage, my daughter Sharelle Maree Smith was born in 1970 and my son Brendan Alan Smith was born in 1973.

I left the ships in 1971 and worked ashore in various areas of catering employment. I managed five restaurants at one time for the Red Barn Corporation. I then worked for Robs Restaurants as a manager and my responsibility was the feeding and entertainment of up to 700 people. I later took over the Octagon Motel (see Ref p 2119) in Punt Road, South Yarra, and brought it out of receivership. During the time that I was manager the Octagon Motel showed a bar percentage turn around of 240% and an occupancy turn around of approximately 100%. Approximately 17 months later I returned to sea. I then left the ships again and purchased a truck/courier service which I ran for 18 months. I was then employed as the cook on a tug out of Melbourne. During

the time that I had employment on the tug I also spent days off and holidays working as a chef in various establishments.

During this time I performed voluntary work and after cooking on school camps on a number of occasions for 2 years I formed the opinion that here I was running Hotels and camps and when I saw that the Cape Bridgewater Holiday Camp became available, I thought that I would be able to perform this task adequately.

CAPE BRIDGEWATER BACKGROUND:

In January of 1988 I conducted a survey of my own in respect to the potential of Cape Bridgewater Holiday camp and Convention Centre. I saw that Cape Bridgewater had attractions such as the seal colony, the petrified forest, the blow holes, the natural springs, Discovery Bay and I considered that that was a definite plus. I then looked at the bookings that the previous owner had and considered that within 12 months I could turn over approximately \$120,000.00 with proper advertising and hard work. I considered that the camp would have been able to grow by up to 40% per year.

Cape Bridgewater is located in the south-west region of Victoria, approximately 420 kilometres from Melbourne. It forms part of the Great Ocean Road and the Shipwreck Coast. I am aware that the tourism in this area has been escalating for the last 4 years and I made a lot of enquiries with the Victorian Tourism Commission who stated that there had never been a decrease in tourism for the previous 6 years. Victorian Tourism Commission told me that an increase in tourism had been around 8% and as much as 15% in that time. I believe that I had done my

homework at the time of purchase.

At the time of anticipating purchase the Cape Bridgewater Holiday Camp catered only for school camps. I had formed the opinion that due to the tourist facilities in the local area, including the South Australian border, Mt. Gambier, Coonawarra Wines and the general location, I was going to sell the camp not only to schools but to social clubs, Probis Clubs, singles clubs and I was also going to run tours of 3 to 4 days from Cape Bridgewater.

Cape Bridgewater is also located 20 kilometres from Portland which is the first Victorian settlement of 1870 by the Henty Brothers. Portland is a well serviced town with 11,000 people, has its own all weather airport and 3 return aircraft a day travelling to Melbourne. This airport is serviced by Kendall Airlines. The area is also well serviced by coaches from both Melbourne and Adelaide.

Cape Bridgewater is also part of the Great Southwest Walk which has been renowned over the last 2 years as the greatest walking track in Australia and one of the best in the world. Therefore I considered that we had everything on our doorstep. The other main attraction of course is that we sit right over the sea with magnificent views out over the beach at Cape Bridgewater and Discovery Bay. This beach is 17 kilometres in length and has a Lifesaving Club which operates from December through to April. We are in fact the only holiday camp in Victoria that has a sea view and sits overlooking the sea.

Cape Bridgewater Holiday Camp itself is on 4 acres which are well grassed with natural trees and shrubs. The structures are a manager's room, kitchen and hall that seats 150 people, all

constructed from Mt. Gambier stone. This hall can cater for weddings as a fully equipped function room. The function room has an open fire, a dance floor, a commercial kitchen, a piano and is fully carpeted. Located also on the property is a large central wooden homestead which sleeps approximately 50 people, there is an 1870 church fully equipped, which is made from original timber and sleeps 12 people.

There are 4 cabins which sleep another 12 people each, a central games room which contains table tennis tables, snooker tables and another small kitchen. There is also a house which has 3 bedrooms and an office, and a reception office is located beside the amenities hall. We also have a barn cum store room shed which is used for storage. There is a playground for children which has swings, ropes and other recreational activities. We also have full outdoor barbecue facilities and we have the requisite toilet blocks and showers. The cabins themselves have their own shower and toilet within them. The structures are located on a 2 acre area and this leaves 2 acres of playing area.

PURCHASE:

I purchased the property in February of 1988, from Mrs. Alma Crouch. She is currently a Lay Preacher in India. At the time of purchase I paid \$280,000.00 freehold. The purchase was made by way of paying \$140,000.00 cash and borrowing \$140,000.000 from the bank. The purchase was done between my wife and myself and there were no other partners in the purchase. The freehold was mortgaged with Moore's Solicitors, who had loaned the money for the investment. After purchase I still had \$57,000.00 in the bank, which was my superannuation, and we had shares worth approximately \$5,000.00.

Upon purchase I automatically gained the projection of bookings who had been at the camp previously and had made bookings for the following years. I conducted my own checks by ringing every fourth one that was in the book supplied by the lady and I never found any discrepancies and therefore I had every reason to believe that the 40 bookings that were sold with the business were genuine. As a matter of fact I only had 2 cancellations out of those 40 bookings.

ADVERTISING:

Immediately prior to purchasing the camp I set up an advertising campaign in Melbourne. I had 2,000 glossy brochures printed for round about \$1,500.00, I air mailed all of these brochures and sent them out to over 600 establishments. All of these brochures had the Cape Bridgewater Holiday Camp phones put on them. I 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. I therefore expected 3% and ultimately I did not get 1%. At the time of course I did not realize that this was a problem due to the telephones.

WHAT WERE THE FIRST SIGNS OF MY TELEPHONE SERVICE BEING INADEQUATE?

Approximately 2 months after my wife and myself arrived at Cape Bridgewater we noticed that we were not getting phone calls. It was around this time that my wife's girlfriend told my wife that she had been ringing for a number of times over a couple of days and that we had not answered the phone. We then had another person, a friend named Bev Hankin ring and make the same sort of comment that our biggest problem was that we did not answer our phone.

Some time a couple of months later I also had a gentleman from the Baptist Church in Warrnambool ring on a Sunday and told me that he had been ringing me for quite some time and that he was getting a repeated voice announcement that the phone was disconnected. He told me that he considered the first time he might have dialled incorrectly, so he dialled a number of occasions and found that he was getting the same message. He told me that a couple of days later he rang again and got the same thing so he then rang Telecom and made a complaint.

I never bothered to follow this up mainly due to the fact that you do not really expect when you first take over a business that there is anything wrong with the telephones.

It was then we noticed that we received a similar complaint from a school teacher in Melbourne that she had spent some time in the middle of the week during the day trying to ring us. We probably had 6 complaints over the first 6 to 8 months. It was then that we became aware that we had a serious problem with our telephone.

At this I started to believe that my problems with the advertising campaigns that I had undertaken were not in my delivery and types of advertising but may well be connected to the phone.

I recall that my wife and I became frustrated because we did not seem to be getting any phone calls at all. In particular, I remember one Sunday where my wife and I were sitting and commenting that we hadn't had a phone call for a week. It was coincidental that a short time later that we received a phone call and it was one of my wife's girlfriends saying she had been trying to ring all morning and all afternoon and asked my wife "where have you been, why don't you answer your phone". I remember my wife saying "well, we've been here". We looked at the prospect that we

had been somewhere else in the camp and had just not heard the phone, however we had an alarm that was loud and could be heard anywhere in the vicinity of the camp. We had made a practice of both of us never leaving the camp at the same time and all of a sudden we realized that we had people complaining from schools and social clubs and friends that they couldn't get through to us.

At the same time, money was not coming in and this, of course, has a particular effect on one's own pride in that you start to doubt yourself and wonder whether you over-judged your own ability to be able to run a successful business.

HAS THE PROBLEM CONTINUED?

Yes the problem has continued virtually unabated since we first noticed calls with the telephone service in 1988. Persons employed by myself at the holiday camp, local businesses, prospective clients, returning clients, friends and associates have all witnessed and experienced the problems that I have had with my telephone service. These problems, which I will address later in this letter, continue to occur at the present time.

WHAT ARE THE ACTUAL PROBLEMS THAT I HAVE EXPERIENCED WITH MY TELEPHONE SERVICE?

Due to the length of time that my problems have continued, I have experienced many and varied repetitive problems. In order to simplify the types of telephone service problems that I have experienced I will list the fault and an explanation of the same. I have experienced all of these faults over the period of my 6 years at Cape Bridgewater

- No ring received - a situation where a caller dials a number, hears the ringing tone but no ring is received at the premises being called..
- Busy when not - a situation where the caller dials the number and hears the engaged signal but the phone on the premises being called is not in use.
- Call dropout - a situation where a call is received in the premises being called but the connection is broken on answering or during the conversation.
- Recorded voice announcement - A situation when the caller dials the number and a recorded voice gives a message such as this number is no longer connected when the number is current.
- Isolated rings - A situation where one or two rings are heard at the premises being called and then usually stops prior to the phone being answered.
- Call connection - While engaged in a telephone call there is more than the normal interference on the telephone.
- Cross lines - During telephone conversations you overhear other calls or you cannot make a call due to other conversations on your line.

WHAT TYPE OF TELEPHONE SERVICE HAVE I HAD IN THE WAY OF LINE AND EQUIPMENT FROM FEBRUARY, 1988 TO PRESENT?

In 1988 I had two lines, the first being 055 267267 which was connected to both the office and residence at Cape Bridgewater and this telephone was the phone number advertised on all of the correspondence in telephone directories, both white and yellow pages, as the official business number for Cape Bridgewater Holiday Camp. The other line was 055 267260 which was the gold phone that is kept in the amenities hall/dining area of the camp for the use of customers/students. This telephone is essentially for outgoing calls on the gold phone and rarely receives incoming calls.

In December of 1992 I had a 008 816522 number fitted in an attempt to attract business. This phone number was put onto the 267230 number, off which I also ran the facsimile machine. In March, 1993, Telecom re-routed my 008 number to the 055 267267 line. In 1993, due to problems and accusations by Telecom that it may be myself holding up the 055 267267 line, I had 055 267267 barred from making outgoing calls and all the outgoing calls since that time are made from 055 267230. The current situation is that I have 3 lines

- 1.. 055 267267 which also allows access of 008 816522 totally for incoming calls.
2. 055 267230 which is for incoming and outgoing facsimile and also outgoing calls.
3. 055 267260 - Gold phone for use of clientele - mainly outgoing.

WHAT EVIDENCE DO I HAVE OF THESE PROBLEMS?

I have been successful in having customers, clients, business personnel, friends and associates

provide me with documentation in respect to their experiences with my faults. I will list these in chronological order.

↙ In September of 1989 I realized that I ought to commence to keep a comprehensive record of the faults and fault evidence. As a result of that I commenced to make contemporaneous entries in my diaries and those diaries are currently in the possession of Loss Adjusters, Freemans Plummer and Pullinger in Queensland.

↙ On the 27th January, 1994, I corresponded to Mr. Warwick Smith, Telecommunications Industry Ombudsman, and I attached to that correspondence 37 separate pages of faults. I would direct your attention to those 37 pages of faults as I have attached them to this correspondence also. I would point out that they are contemporaneous notes that have assisted me in formulating my claim on this occasion. You are aware by now that Telecom have failed to keep any such record of the history of faults with my telephone service (Ref p 1289) or for that matter any other telephone service with any other difficult network fault customer in Australia. Extensive attention is paid to their failure to keep records in the reports of Coopers and Lybrand and the Australian Telecommunications Authority. I would submit that my records are far more accurate than Telecom's and accordingly ask you to take them into account when making a determination with respect to my claim.

These same records were presented to Senators Alston and Boswell in May of 1993, and are evidence that the records are of a contemporaneous nature.

Furthermore, I have attached correspondence from clients and other business operators in the

Cape Bridgewater area showing that they also suffered severe fault conditions with their service from Telecom. You would note from the correspondence from clients that they had extreme difficulty on occasions in contacting my business. I had advised many clients to complain to Telecom directly with respect to the faults that they detected and I also made complaints to them, however we are now aware that Telecom failed to record multiple complains on the Leopard system and failed to maintain Leopard records or any other fault records over a long period of time.

Effectively, a number of my clients could contact Telecom on the one day, however, Telecom would not record all of the complains, as their computer data base would indicate to them that the complaint was being attended. In the event that the complaints were successfully completed (to Telecom's standard) then the complaint would be purged. This has resulted in the situation where I am the only individual who has a full and comprehensive knowledge of the extent of the faults on my system as the officers within Telecom who are dealing with the matter now have never had any direct contact with me over the time of the claim.

I made complaints to Telecom and my phone service has not been adequately dealt with and therefore I became involved in what can only be described as a continuing conflict with Telecom. During this time I have been successful in becoming a founding member of COT - the Casualties of Telecom, which is now an organization that has been documented and researched by Austel, the governing body of Telecom, commonly known as Telecom's watchdog. In this regard, the members of COT have been successful in obtaining the procedure of which this claim is to be part. As a part of this procedure, I have had numerous contacts with Telecom Technicians, officials and employees and I have obtained through this process, certain documents under Freedom of

Information applications. The following are the types of evidence that I have in respect to this claim.

1988 - Evidence from persons outside Telecom

My own personal documentation

1989 - Evidence from persons outside Telecom

My own personal documentation

1990 - Evidence from persons outside Telecom

My own personal documentation

1991 - Evidence from persons outside Telecom

My own personal documentation

1992 - Evidence from persons outside Telecom

My own personal documentation

1993 - Evidence from persons outside Telecom

My own personal documentation

1994 - Evidence from persons outside Telecom

My own personal documentation

FAULT HISTORY TABLE:

I have prepared a table from reference sources for your perusal. I believe this table, along with reference to the sources, will give you a proper understanding of the extent of my problems.

Date	Fault	Source	Ref
05 03 91	Telecom survey CBW (7)	FOI (T)	1
18 03 91	Telecom document re Technicians unable to fix so far	FOI	1193
00 06 91	Telecom document. Several days other customers experienced faults	FOI	1161
07 06 91	Telecom Fault History (20) faults	FOI	1102
28 06 91	Fault history (16) faults (23/7/92)	FOI Fault History	21
15 08 91	Telecom document. Busy when free. Collingwood (1) fault (Specific Fault Noted on the Leopard) (RCM will fix this)	FOI	1174
21 08 91	Telecom document - busy when free. N.P. plus	FOI	1170
09 10 91	Fault history (15) faults. (31.9.92)	FOI Fault History	20

04 12 91	Fault/engaged Collingwood. Also Telecom state age of RCM is fault 88 - 91	FOI Mark Ross	0004 - 0005
02 02 92	Telecom document about 50% of the calls he attempted failed. PABX has been affected by a lightning strike (1) fault	FOI	1192
16 03 92	Fault History (3) faults (19/3/92)	FOI Fault History	26
16 03 92	Fault history (17) faults (23/3/92)	FOI Fault History	27
16 03 92	RVA NRR (1) fault	FOI Fault Status	19
19 03 92	Telecom fault date (1) fault. Conflicting statements.	FOI	1126
16 04 92	RVA to Kevin Turner 267275 (3) faults	FOI	1168
21 05 92	Data change MELU (2) faults	FOI Mcintosh	18
26 06 92	Fault history (21) faults (19/1/92)	FOI Fault History	25
30 06 92	RVA - Greyhound bus station	FOI	1168

03 07 92	Fault history 27/6/91 - 12/6/92 (11)	FOI Peter Taylor	13 and 14
03 07 92	Telecom document (1100) Reports following RVA - 1100 exp problem told by English tourist. We have letter. (1) fault.	FOI	1171
23 07 92	Telecom document. Admission of faults	FOI	1139
24 07 92	Telecom document (1) fault. RVA from Port Melbourne Station Pier	FOI	1162
24 07 92	Telecom analysis (7) faults RVA	FOI	120
24 07 92	Drop outs and overcharging. No pips	FOI	120
31 07 92	Telecom document RVA (3) faults + heavy congestion from Hamilton Exchange	FOI	1179
07 08 92	Telecom document 008 (re long pause) from Geelong. Re fax problems as well (2) faults	FOI	1129
16 08 92	Message contents (1) 50% loss of calls	FOI Margaret Seymour	17
21 08 92	Telecom F/data (1) Re NRR Fault X HLD	FOI	1128
28 08 92	Telecom F/data (1) Re N.A call fault X HLD	FOI	1127
02 09 92	Fault history (2) faults	FOI Fault History	29 30
02 09 92	Fault history (3) faults (7/8/92)	FOI Fault history	37

02 09 92	Telecom document re - we have had quite a few complaints from ARK M Customers (including MEYD) about this recording	FOI	1188
02 09 92	Telecom document re conflicting statement from 2.9.92 - 7.10.92. 37 days RVA	FOI	1168
03 09 92	Telecom data (9) faults on date	FOI	1191
14 09 92	Telecom Minute RVA Faults (2) heavily blanked out (Please note)	FOI	1178
25 09 92	Telecom document (2) faults 2 calls unanswered Re 21.13 - 21.14 Sec./burst rings	FOI	1157
25 09 92	Telecom document. Confirmed faults Re next 2 documents 1158 and 1159 highlight confirmed faults	FOI FOI	1158 1159
28 09 92	AXE Network restricted to Cape Bridgewater Camp 6.00 - 7.20 p.m. Telecom document re congestion between Cape Bridgewater to Portland prevalent only 5 incoming lines	FOI FOI	1166 1167
28 09 92	Telecom analysis (2) faults. No voice	FOI	124
02 10 92	Telecom document re cross talk - looking at fault - other persons experiencing	FOI	1185
02 10 92	Telecom document re cross talk - looking at fault - other persons experiencing	FOI	1185
05 10 92	Telecom document. Austel rang, could not hear customer - twice on ringing. Third time getting through was on mobile	FOI	1187

07 10 92	Telecom document re no solution to the cross talk problems and the problem with (BLANK) getting RVA in the minor is a known problem - affects ARK etc customers	FOI	1186
08 10 92	Document X HLD (1) fault	FOI	49
07 10 92	Telecom document. RVA from ARK off of Portland. (3) faults. Cross talk to another customer	FOI	1166
12 10 92	Telecom Elmi prints (2) faults	FOI	50
15 10 92	Telecom document. (4) drop outs (no one there)	FOI	1160
18 10 92	Telecom Fault History (2) faults	FOI	48
19 10 92	Fault history (2) faults RVA failures	FOI Fault History	31
19 10 92	Fault history (21) faults	FOI	670
19 10 92	Telecom Elmi prints (1) fault	FOI	47
19 10 92	Telecom document re excessive failures on M.F.C.	FOI	1189
28 10 92	Fault history (1) reminder call	FOI Fault History	35
29 10 92	Telecom document (1) fault. Phone not off hook	FOI	1140
02 11 92	Telecom ELMI tapes (4) faults	FOI	111
20 11 92	Telecom Fault History (39) faults	FOI	117
20 11 92	Commercial Vic/Tas (4) faults	FOI Fault History	41

23 11 92	Telecom document (2) faults	FOI Fault History	42
23 11 92	Telecom document (2) faults	FOI Fault History	43
29 11 92	Telecom diary notes. Range of faults	FOI	1183
28 12 92	Telecom Document fault chart (12) faults from 14/8/92 to 3/11/91	FOI	1182
06 01 93	Fault history (3) faults (18/2/93)	FOI Fault History	23
18 01 93	Fault history (2) faults (116/7/93)	FOI Fault History	24
02 02 93	Telecom document (5) faults	FOI	307
02 02 93	Telecom document (5) faults	FOI	310
02 02 93	Telecom document re this problem occurs intermittently throughout the Network - it is a known problem. There appears to be no one person or group involved in restoring it.	FOI	1192
02 02 93	PABX + no progress+ 50% calls failed	FOI	282
03 02 93	Telecom In Confidence (10) faults	FOI	285
04 02 93	Telecom complaint (4) faults	FOI	282
04 02 93	Telecom document. (-) Combined faults	FOI	1196
04 02 93	Telecom document (5) faults	FOI	308

05 02 93	Telecom document (5) faults	FOI	310
08 02 93	Telecom (5) faults	FOI	309
08 02 93	Fault history (1) fault. Elect noise	FOI Fault History	34
09 02 93	Telecom document (5) faults	FOI	311
10 02 93	Telecom document (5) faults	FOI	310
12 02 93	Telecom document (5) faults	FOI	308
12 02 93	Telecom document (-)	FOI	1194
12 02 93	Telecom document. AXE problem	FOI	283
19 02 93	Telecom document (5) faults	FOI	311
24 02 93	Telecom document. (-) Combined faults	FOI	1195
25 02 93	Telecom document (6) faults	FOI	312
25 02 93	Telecom document (1) fault. Lightning strike repairs	FOI	1136
25 02 93	Telecom Occ causing noisy transmission problems. Cause found in RCM (1) fault		1172
05 03 93	Ray Morris Telecom Fault - couldn't ring	Own docu- ment	316
05 03 93	Telecom document (4) faults Combined faults	FOI	1194
05 03 93	Telecom document codes wasn't going anywhere (1) fault	FOI	1131
09 03 93	Telecom document (5) faults	FOI	308
09 03 93	Transmission break up (2) faults	FOI	282
12 03 93	Telecom document (6) faults	FOI	314
12 03 93	Telecom document (6) faults	FOI	312
12 03 93	Telecom document (4) faults. Combined faults	FOI	1195

12 03 93	Telecom document (3) faults. Re the major problem was caused by a faulty termination of resistors. 1100 operators could not get through on the 19th February, 1993	FOI	1197
15 03 93	Telecom document (5) faults	FOI	315
19 03 93	Telecom document. Code found with no RC (1) fault	FOI	1132
22 03 93	Telecom diary RVA problems. Note: No fault (Question only)	FOI	1180
22 03 93	Diary notes. RVA fault	FOI	293
23 03 93	Diary notes. RVA fault	FOI	293
23 03 93	(Diary note) Attempting to solve the high congestion problems. Could be causing problem	FOI	1180
23 03 93	Tests done	FOI	1035
25 03 93	Diary notes. Job half done?	FOI	294
29 03 93	Telecom document (2) faults 1100 also experiencing problem (dead line)	FOI	1142
29 03 93	Telecom fax. 1 fault 1100 experienced fault along with client from Wallacedale	FOI	1152
29 03 93	Fault status (1) fault	FOI	318
29 03 93	Telecom document re Camping Association	FOI	1201
29 03 93	Diary notes. Congestion exchange lockup	FOI	295
30 03 93	Telecom document re 1 burst problem. Confirmed by Leopard. (1) fault.	FOI	1200
31 03 93	Diary notes. Cut off during conversation	FOI	295
02 04 93	Telecom document. No fault report received. 16 documents still to get under FOI re RCM 2/4/93 faults	FOI	1145
02 04 93	Telecom document (1) fault re incorrect routing	FOI	1133

07 04 93	Fault document Golden busy fault	Own Docu- ment	317
14 04 93	Fault Status. (3) faults	FOI	318
18 04 93	Fault status (1) fault	FOI	319
19 04 93	Fault history (5) faults (23/11/93)	FOI Fault History	22
19 04 93	Leopard status (2) faults	FOI	320
20 04 93	Telecom document. 8 not received under FOI	FOI	1148
26 04 93	Telecom document (1) fault Gold Phone 6 days off	FOI	1143
26 04 93	Leopard status (1) fault	FOI	321
28 04 93	Telecom document (1) fault	FOI	337
11 05 93	Diary notes (1) fault RVA exchange	FOI	300
12 05 93	Diary notes (1) fault burst	FOI	300
13 05 93	Diary notes. Exchange lock up	FOI	296
13 05 93	Diary notes. Exchange lock up. Trouble dialling	FOI	296
14 05 93	Diary notes. Exchange ring outs + RVA	FOI	296
17 05 93	Telecom re R. Morris (2) faults	Own Docu- ments	338
21 05 93	Telecom document (4) faults	FOI	284
24 05 93	Telecom document. 46,000 errored minutes re COT report page 164 (7.29) plus alarm system out for 18 months	FOI	1176
25 05 93	Fault history (8) faults	FOI	1101
26 05 93	Telecom document 2 not received under FOI	FOI	1147

26 05 93	Telecom In Confidence (13) faults	FOI	343
00 06 93	Telecom document. re lightning strikes (1) fault	FOI	1130
01 06 93	Telecom document 16 not received under FOI	FOI	1146
02 06 93	Diary notes (1) fault. Faulty line exchange	FOI	299
02 06 93	Telecom letter ASM. Noise on phone	Own Docu- ment	292
02 06 93	Telecom Analysis Data (1) fault	FOI	365
03 06 93	Telecom document. This was a fault not my answering machine. Fault (1)		710
04 06 93	Telecom Working sheet	FOI	1155
05 06 93	Telecom document. 2 RVA from customer 008 816522 (1) fault	FOI	1165
05 06 93	Diary notes Telecom (1) fault. Exchange lock up	FOI	301
07 06 93	Telecom working sheet re tried to ring 267267	FOI	1156
07 06 93	Telecom document. Customer 2 RVA (1) fault	FOI	674
07 06 93	Telecom. Customer got busy (1) fault	FOI	673
08 06 93	Diary notes Telecom (1) fault. Exchange lock up	FOI	302
08 06 93	Telecom Document. Calls were not connected	FOI	676
08 06 93	Telecom document. No conversation (2) faults	FOI	675
08 06 93	Telecom document. (2) faults - 1 insufficient time to raise a conversation period + 2 short rings period all 5 seconds	FOI	1163
09 06 93	Telecom document RVA		677

16 06 93	Telecom working sheet re Gordon Stokes too busy to do	FOI	1154
17 06 93	test? + calls from 60 Minutes can't get through. Re also		
18 06 93	no record of 60 Minutes fax coming through? Yet it did. (2) faults		
22 06 93	Fault history	FOI	670 664
22 06 93	Telecom in confidence (10) faults	FOI	285
24 06 93	Telecom working sheet RVA + 1 burst of ring and busy when free (5) faults	FOI	1153
25 06 93	Diary notes (1) fault. Fault lock up	FOI	298
07 07 93	Telecom document. Incorrect data for 008 service to Cape Bridgewater since the beginning - December, 1992 till 8.7.93. (1) fault	FOI	731
12 07 93	Telecom In Confidence (13) faults	FOI	287
12 07 93	Telecom document (3) faults	FOI	703
	Telecom document re Austel report		700
	Telecom document re Austel report		-
	Telecom document re Austel report		703
12 07 93	Telecom document faults ? At this stage we had no idea over what period of time these errors had accumulated		1175
27 07 93	Telecom In Confidence (13) faults	FOI	343
11 08 93	Telecom document (1) fault. Busy when free. Telecom exp problem. Telecom fault sheet. 008 numbers don't get through (1) fault (Telecom fault sheet)	FOI	721
16 08 93	Telecom Stockdale, David (2) faults 2.5 hour l/up	FOI	125

17 08 93	Telecom document (2) faults. 2 rings then dropout - echo plus 5 dead lines before 1100 got through	FOI	725
17 08 93	Telecom document. Lady with dead line. Re document (722 - 725) (re 722) 5 incoming calls I was charged for these calls on my 008 number? Yet they never got through? Attention DMR	FOI	719
17 08 93	Telecom document. Calls not getting through plus 008 number ongoing problem (2) faults	FOI	1173
24 08 93	Telecom document "All lines have problems".	FOI	727
25 08 93	Telecom diary. Please question only job half done. Is this a cause of another fault	FOI	1181
30 08 93	Telecom document (1) fault. Clipping on line (transmission)	FOI	1135
30 08 93	Diary notes Telecom (1) fault	FOI	304
08 09 93	Telecom letter 2.10 minute lock up at Cape Bridgewater (1) fault	FOI	749
13 09 93	Telecom document re hospital RVA to 267. RCM + 17/9/93. No access to 267 from all lines 30/9/93 (2) faults not only on 267267 lines	FOI	1190
01 10 93	Telecom document (2) faults and Heatan gas got RVA 267267 + customer got cut off	FOI	1164
15 10 93	Telecom document (4) faults (NR) 1 burst	FOI	1137
26 10 93	Telecom document re line jumping (7) faults Telecom document fault history (1) fault XHLD re Frank Blount sec. Beeps over conversation then dropped out twice. (1) fault	FOI FOI	1149 1151

27 10 93	Telecom document. Check current fault on fax 17.06 Fax rod cut off (1) fault	FOI	1150
28 10 93	Fax Telecom document (1) fault	FOI	1034
28 10 93	Fax Telecom document (1) fault	FOI	1033
28 10 93	Fax Telecom document (1) fault	FOI	1032
28 10 93	Fax Telecom document (1) fault (ongoing fault)	FOI	1032
28 10 93	Telecom document (1) fault. Re fault in hand	FOI	1125
29 10 93	Fax faults (Telecom document) (1) fault	FOI	1038
29 10 93	Fax Telecom document (3) faults cut offs	FOI	1031
01 11 93	Leopard status enquiry (1) fault	FOI	1040
04 11 93	Diary notes. Calls dropping out	FOI	291
23 11 93	Fax activity report (2) faults	FOI	1069
23 11 93	Fault history (8) faults	FOI	1101
29 11 93	Fax investigation (1) fault - faxes missing 20 faxes ?? Fax records show only 15 faxes	FOI and ASM records	1060
29 11 93	Re Ann Garms (phone bill) this is Ann's bill. Ann was charged for not getting through to me. Date and time will show my line was busy with Telecom technicians at this time.	FOI and ASM docu- ments	1057
30 11 93	Telecom diary notes. Lock up cut off on conversation plus lock up similar to Mr. Smith - cut off	FOI	1184
07 12 93	Telecom document. Re-occurring fault. Faults ?	FOI	1054

13 01 94	Telecom document re paragraph 6. No calls were answered at Cape Bridgewater (008 816522)	FOI	1036
	Telecom document (St. George Bank) (2) faults	FOI	1035
16 04 94	Telecom document (2) faults re RVA and Queensland getting RVA	FOI	1198
?	Fault history (3) faults 267,275,230	FOI	52
?	Telecom document (2) faults re 30% calls to ARE	FOI	1134
?	Telecom document (8) faults on RVA	FOI	1169

I would like to bring to your attention, specific areas that I maintain demonstrate the types of faults and the extent of faults that I have had during this ongoing struggle with Telecom.

(Ref p 1124) This refers to an internal Telecom document which has a facsimile date of the 27th September, 1993, however we do not have the exact date that it was prepared. We also do not know who the author is, however in a summary in respect to my problem, this document clearly states that I have experienced an ongoing complaint and service difficulties over a five year period. Further states that prior to 1991 my clients had experienced recorded voice announcements and engaged tone when calling Cape Bridgewater Holiday Camp. You will note here that this document further enhances my argument that Telecom cannot on reasonable grounds say that these problems have not existed. This document in itself states at paragraph 4

"Details regarding these early difficulties, consequential actions and results have been lost or misplaced over time. The organizational changes that have occurred in Telecom over the past five years have meant some files have

simply disappeared or never existed".

(Ref p 363) This particular reference demonstrates the extent of the faults that I experienced. This internal Telecom document states quite clearly that Telecom's own investigations revealed that the system was showing a large number of degrade minutes (DM) and erred seconds (ES) in the Portland to Cape Bridgewater direction that could have caused the VF cut-off problem. Mr. Arbitrator, this piece of internal document clearly demonstrates that the problem I have been stating in regard to incoming calls has been acknowledged by Telecom. These faults identified and confirmed by Austel's investigation into the COT cases (Austel report - page 164 7.29) shows that the remote customer multi-plexor (RCM) at Cape Bridgewater had problems at installation in August of 1991. These installation problems led Austel to state that the alarm system which was meant to be activated when the level of faults exceed the specified threshold, was not connected effectively. Austel found that the result of the alarm system not being operative for some 18 months indicated that during that 18 months one-third of the RCM capacity, including that part to my service, was subject to 46,000 minutes of degraded service. Sir, on my simple calculation, having noted that Telecom always refer to telephone conversations in seconds is quite simply 2,760,000 seconds of telephone concerns that I had in an 18 month period that can be proven from Telecom's own investigations and Austel's.

Furthermore, it is important in my opinion to note an internal memo dated the 24th May, 1993, (Ref p 0363) Telecom management state that from the 24th February, 1993, after these problems had been fixed, that I had experienced no further problems. I refer you to Telecom document, (Ref p 1172) on the 6th point, in the history of customer complaint, that on the 25th February, 1993, a fault was found causing noisy transmission problems. The cause of this was found to be

in the RCM system.

This is confirmed by further Telecom internal documents (Ref p 282, p 312, p 1194, p 1195 and p 1197) where a Telecom Official states that he rang myself on the morning of the 25th February, 1993, and I told him that I was still having breaking up of transmission problems, that the OIC rang and was asked to ring (FOIDEL) to request assistance in monitoring the RCM bearers. It would appear obvious that the author from the National Switching Section, Melbourne, dated 24th May, 1993, and the follow up correspondence from the National Network Investigations Official demonstrates the total lack of commitment of Telecom's senior management in recognizing and correctly reporting the situation.

I am certainly not skilled with a legal background, however, the only view that I believe a reasonable person can take of these letters is that they are a deliberate attempt to mislead further management within Telecom. They also show, in my humble opinion, that the management of Telecom had no desire to admit to their inability to locate and properly fix the problems that I was experiencing.

Mr. Assessor, let me list for you some relevant references to further prove my point. Please refer to (Ref p 283, p 284, p 285, p 286, p 287, p 291, p 293, p 295, p 296, p 298, p 299, p 300, p 302, p 304, p 307, p 311, p 312, p 314, p 315, p 316, p 317, p 318, p 319, p 320, p 321, p 337, p 338, p 661, p 670, p 673, p 675, p 677, p 1101, p 1131, p 1132, p 1133, p 1142, p 1143, p 1145, p 1146, p 1151, p 1152, p 1154, p 1156, p 1158, p 1159, p 1163, p 1165, p 1173, p 1194, p 1195, p 1197, p 1198, p 1200. These 54 documents, which are nearly all Telecom internal documents, between them make mention of 104 problems involving my telephone service. These

documents are dated between the 24th February, 1993, and the 12th July, 1993. (Ref p 0702) is the document referred to in the Austel report at page 164 point 7.31 is clearly a document which has been prepared without any regard for the truth. Austel is quite right when at point 730 they state **"it is difficult to reconcile Telecom's recent explanation of the effect of the RCM's fault on Mr. Smith's service with Telecom's own contemporaneous notes of its effect."**

You see, Mr. Assessor, this is the type of frustration, and in my reasonable view, the lies perpetrated by Telecom throughout the history of my dilemma. Could I also refer you to one of these documents (Ref p 1145) which is a particularly interesting document compiled on the 4th June, 1993, over a month previous to the compilation of the report from National Switching Support in Melbourne. It is also important to note that this particular report was sent to the Manager of Network Investigations, Mr. D. Stockdale and the Manager of Commercial Network Support, Mr. R. Morris. Two men who are particularly familiar and who are mentioned throughout the documents that I have referred to.

In regard to (Ref p 1145) you will note that it is a facsimile header of which I have not received any other pages. You will note that it says the total pages are 16 and it is addressed as this **"attached is a copy of all faults reported by customers off the Cape Bridgewater RCM since the 2nd April, 1993"**. One would think that it is incredible to be able to even consider writing a management document on the 12th July, 1993, that states that no further problems have been experienced and goes on to state that a continued monitoring of the RCM has revealed that all of the errors on the bearers at the RCM have been minimal.

Mr. Assessor, without the luxury of being provided those 16 pages (Ref p 1145) of faults in the

Cape Bridgewater area from the 2nd April 1993 to 12th July 1993, one can only wonder what these faults are and how many faults are there to a page.

Sir, these are the types of matters which I addressed to you in my explanation of this report. I humbly ask that you exercise your powers and order that full investigations are carried out in respect to obtaining these particular documents because I fully believe that with access to these particular documents, you will be left in no doubt as to the extent of the problems in the Cape Bridgewater area. Not only is it impossible to believe that the management of Telecom could write reports in July of 1993 which do not refer to all of the other problems experienced, but Telecom in July of 1993 had received a document from Austel dated the 8th June, 1993 ,(Ref p 0666) which clearly outlined my case.

How could any one in the management of Telecom, especially the people who have been aware of this and who are fully aware of the COT cases and their complaints, have disregarded this type of information when preparing documents. Rather than take the attitude of fully revealing the facts, (Ref p 0666) can be seen to demonstrate the attitude of Telecom. A note on the side of a paragraph of this document simply states "very untrue". These two words surely demonstrate that Telecom through its management not only decided to bury its head in the sand over these complaints, but tried to wedge in its corporate body so as to cover up the whole sordid ordeal.

To further emphasise my point Mr. Arbitrator, I refer you to a document obtained under Freedom of Information by Mrs. Ann Garms, a COT member (Ref p 1247). I am sure that a comparison of handwriting of the management team who have been handling the COT cases would reveal who the author is. This note simply states (handwritten)

"Jim (referring to Jim Holmes), at your invitation, I read it and then re-read it, this is a classic illustration of how alternative dispute resolution is doomed to fail, you will never satisfy people like this, Coles Myer simply ignores them and gets on with business".

Sir, I would submit that this is a classic illustration of how the expectations of the common people to have Telecom management deal with their faults is doomed to fail. It would appear that the management of Telecom simply wish to ignore the problem and get on with business. The tragedy of this type of attitude by Telecom Management of course is that if, as a customer, you are ignored by Coles Myer then you take your business to Woolies or Franklins! Unfortunately, I had nowhere else to take my business, Telecom had no competition for the majority of the period of this dispute.

To further support this again, I refer you to (Ref Pp 1104 - 1105), two pages of a letter from Freehill Hollindale and Page, addressed to myself, dated 28th January, 1994. In paragraph 2, where these Lawyers presumably properly instructed by their clients, Telecom, have stated that I made a total of 9 reports to Telecom's fault report services during the period 1st January, 1993, until 9th August, 1993. I am sure that having read the references that refer to faults over this period you are now in a position to draw your own conclusions as to the truthfulness of advices given by Telecom management to their own Lawyers.

I am sure that from the evidence that I have related above, you will be as equally disturbed as I in respect to the ability of the management of Telecom to properly address my particular problem and you will also now realize why I believe that I am in conflict with Telecom.

I would submit Sir, that you have to take into account the variety of problems that have occurred with my telephone service and the variety of problems that appear to occur within the Portland to Cape Bridgewater area. You will note that reference is made to the fault of congestion. It would be my contention that this is a serious service inadequacy on Telecom's behalf. The five lines that service Cape Bridgewater area must service 67 consumers, of which I am the only commercial business. These five lines service both incoming and outgoing calls. You can well imagine the congestion which must occur. You will note from the Telecom fault details that over the period whether those five lines were connected to the ARK or to the AXE, Telecom has had problems within this exchange, which has resulted in a reduced grade of service.

It is not a difficult equation in my submission that determines the difficulties in service to persons in the Cape Bridgewater area.

You will also note from the correspondence that congestion is exacerbated by the other problems and identified faults in the area. It would appear that these faults are not isolated to Cape Bridgewater and therefore one would have to consider that the network for the Portland/Cape Bridgewater area suffers from incorrect installation, inadequate maintenance or total lack of management by Telecom.

All of the evidence in relation to the faults in Cape Bridgewater and Portland would have to lead you to believe that both Telecom technical staff and management staff have dedicated themselves to covering what is an inadequate service rather than fixing their inadequacies.

I request that you have Telecom undertake a survey in the Portland/Cape Bridgewater area

overseen by an impartial body to determine the extent of telephone difficulty and faults that exist in the area. I would request that you instruct Telecom to rectify the problem even if this equates to a large financial dedication by Telecom into the replacing and updating of their equipment.

HOW GREATLY HAVE THESE PROBLEMS AFFECTED MY TELEPHONE SERVICE?

I am in no doubt whatsoever that these problems identified by independent persons, Freedom of Information Telecom documents, and myself have had an enormous impact upon the quality of telephone service I have received. I have employed a person named Mr. George Close to investigate and analyse the extent to which my phone service has been affected by the problems that have continued over the 6 years. Due to the issues that I have addressed in my explanation of this letter of claim, the report I have employed Mr. Close to produce on my behalf is to be submitted at a later date. Once again, Mr. Arbitrator, I seek your understanding in exercising the powers that are at your disposal to force Telecom to provide the rest of the Freedom of Information application free of charge so that my representatives and I can do natural justice to the presentation of this claim.

If you do not consider that it is necessary for me to have at my disposal all of the information from the Freedom of Information application in respect to technical data, then in order to quantify the percentage of service difficulties that I had ie. did I lose 3 calls out of every 4 and therefore did my business suffer by 150%, I would submit that it is reasonable for me to request that you have your technical facilities assess the data and quantify the amount of loss of telephone service.

Briefly, I have outlined further in this letter my beliefs as to why you would have to reach the

conclusion that my service has been affected by at least 50% of incoming phone calls.

HOW HAS THIS LACK OF SERVICE AFFECTED BY BUSINESS?

The extent to which loss of telephone service can affect one's business is, I argue, dependant upon the type of business that is being exercised. The Cape Bridgewater Holiday Camp and Conference Centre is a facility which is open to all types of businesses, schools, groups - both Church and social, and other entities who wish to take advantage of the facilities provided by the Cape Bridgewater Holiday Camp and Conference Centre.

Due to the location, most customers are not from what can be termed "the local area". Most bookings at a Holiday Camp and Conference Centre are made by prospective clients as the result of either having attended at the facility previously, or by having read advertisements or by word of mouth. The normal manner in which people contact such a facility is by telephone. It would be highly irregular for any person or persons, group, School or entity that wished to book accommodation at Cape Bridgewater to not use the telephone.

Therefore, any telephone service that is inadequate, as I believe mine to be, directly impacts upon the business. Out of every ten calls that I received, one or two would be in relation to a booking enquiry.

It should be noted here that due to the inadequacies of the telephone service that I had, I argue, the diminishing number of calls received re business enquiries would be due to this, therefore the figure relies upon the experiences that I had and a calculation if the telephone service had operated

at the expected standard of 98.3%. Now of every ten calls that enquired in relation to booking, normally two would have confirmed and in fact become business customers of the Cape Bridgewater Holiday Camp. Therefore, the Camp is virtually totally dependant upon its telephone service.

During the time that I have experienced the problems with my telephone service at Cape Bridgewater, 85% of my bookings have been return custom. This therefore equates to the effect that only 15% of my custom has been from persons who have been successful in getting through to the camp on the telephone service. You will note from the correspondence attached that a number of these persons are persons who in fact went out of their way to ensure that they could make a booking even though they had difficulty in making telephone contact.

One can then only project as to how much the inadequate telephone service has impacted upon the potential of attracting new clientele. See attachment (report of Accountant, Derek M. Ryan, Melbourne).

In respect to financial conciliation with the amount of calls lost, I have lost from information from Telecom FOI's statements pertaining to the 50%. That 50%, and identify these documents of course and just research them a little, these documents refer to one fault only and that fault is recorded voice announcement. This period of time was March 16th till March 19th, 1992. Telecom then supplied a document that stated that it could have been in the MELU data three weeks prior, however they indicated that there were no archival records available to staff to indicate that the problem had existed at any time prior.

I would direct your attention to two letters, one from the Haddon Community Centre in October 1991 (Ref p 2008), and the other from Heywood Primary School in October/November, 1991 (Ref p 2016). You will note by studying those letters that both of those persons have complained to me about the incidence of this particular type of fault. I would submit to you that this is evidence that a fault existed on a date considerably sooner than that recorded by Telecom.

Furthermore, you will find in my correspondence, letters from myself to Telecom, where I have asked them to produce for me documents sent by me to them in both 1990 and 1988 outlining the incidence of this fault. It is my submission to you that the fault existed for a considerable number of years, and therefore the call loss rate of 50% (which is 100% of my actual current business turnover) can be extrapolated over the period of this claim.

(Ref p 2105) you will note that in August, 1989, I wrote to the Country Engineer at Telecom Hamilton and notified them of a lady from the Turkish Womens Association in Melbourne that she had heard a message saying that we were not connected. You will note that in that correspondence I had received word from the lady from the Turkish Womens Association that the operator on 1100 had also obtained the same message. You will also note in correspondence dated the 16th May, 1990, (Ref p 2102), where I state that "the last complaint, but certainly the most damaging to a small business like ours. A repeated voice announcement that the number our clients are ringing is not connected".

I believe that the evidence is therefore overwhelming that this fault and a number of others, which I will go on to outline, have existed over the entire period that I have had my telephone service in Cape Bridgewater. Telecom may well question the grounds upon which I base my calculation

that I have lost at least 50% (which is 100% of my actual current business turnover in calls). I am going to explain it in the simplest terms that I know.

If a person sits in their house night after night and hears a noise on the roof that sounds like rocks they investigate. They see a lad running away and are told by neighbours that this particular lad has been rocking the roof for quite some time. It is therefore reasonable for that person to assume that over the last 12 months every time that roof was rocked, without any other evidence, then it may well have been the lad in question. It would appear to me in my case where the evidence exists from independent persons and from myself without any other evidence from Telecom, who haven't kept proper records, it is reasonable to assume that both the other persons and myself are correct. I believe this is highlighted by page 86 of the Austel report:

Point 511 - Inadequacies in Telecom fault reporting/recording and monitoring/testing systems and procedures (outlined in Chapter 6) mean that an individual customer would be unlikely to be able to meet the standard of proof required by a Court in relation to the causal link between call loss and damage.

I do not believe that in this regard, for the purposes of this claim, that I should have to meet a standard of proof beyond all reasonable doubt. I believe that the standard of proof should be on probabilities and in that regard I feel that the balance of probability weighs heavily in favour of the persons who have the records and have not lost or chosen to destroy (Ref p 1289).

April, 1994, p 11).

I would refer you to (Ref p 1026) where I received correspondence under the FOI that I know was compiled by Mr. Mark Ross. Please marry this to the piece of FOI that says my service problems have been ongoing for 5 years (Ref Pp 1125 - 1126) relate to a fault reported in Telecom FOI undated internal document states that two faults were reported by myself, Telecom state that when they spoke to me they were inferring that I told them that it was answering machine difficulty and the machine was clicking and not turning on. It is alleged that a technician attended and found that I had an answering machine difficulty.

I categorically deny that any technician has ever examined an answering machine I have connected to my service, however a number of technicians have told me that the fault is with my equipment and partly due to my answering machine. Let me explain this more fully. I initially connected an answering machine to my service, which was Telecom approved, in 1988 due to the possibility that at different times my wife and I may well be away from the camp, however I must reiterate that it was on a very rare occasion that we ever were. That is normally one or the other of us would always remain at the camp.

I recall that in 1990 somebody from Telecom, a technician from Portland, stated that I could have had a problem with my answering machine, therefore I removed that answering machine and purchased a new answering machine. This answering machine was a GEC brand and Telecom approved. I attached this answering machine to my service, however once again it was very rarely ever activated. When I spoke to Telecom technicians they stated that you should never leave the answering machines across the lines so therefore whenever I was not going out I would have the

answering machine totally removed from the service, that is not connected to the telephone. It was therefore then a very rare occasion that it was ever connected up and I can have staff members verify this fact.

I recall that on April the 13th, 1992, a male person from Telecom arrived unannounced and I remember that his name was Ross Anderson. Just prior to Mr. Anderson arriving I had intended to travel into Portland. I had gone about a normal procedure where I ensure that the answering machine is plugged in both to the power and also to the telephone and then I normally turn the machine on. However, on this occasion I saw the Telecom vehicle arrive and I met the gentleman at the door. I spoke to this gentleman and the conversation was to the effect that he was attending to carry out some tests on my telephone service. I then decided to stay in order to allow this gentleman access to my residence.

I then heard the telephone ring and continue to ring for approximately 12 bursts of ring. I went back into the room where the telephones are located and Mr. Ross Anderson said to me "there's your problem". I asked him what he meant and he indicated that "it is your answering machine, you have left your answering machine turned off but connected to the service". I then explained to Mr. Anderson that I had just been on my way out and upon his arrival I had not turned the answering machine on.

I am well aware, however, that even if this answering machine was left on the service and not turned on, it automatically reacts after 12 bursts of ring in order that if it were myself ringing the answering machine I would be able to retrieve any message that had been left on it. Mr. Anderson appeared not to want to acknowledge this and he once again stated that that was the fault and his

job was just to identify the same. Mr. Anderson then left the premises without checking the answering machine. I did not hear from Mr. Anderson again in relation to the answering machine.

It is interesting to note that Mr. Anderson as recently as late May of 1994, changed his opinion of the cause of the problem to my facsimile machine (Ref p 2087). I complained to Telecom on the 22nd May, 1994, that my facsimile line was not working adequately. I had Mr. Anderson attend at my premises at Cape Bridgewater and whilst he was there I had problems with a fax coming through. On the third occasion the fax came through and I noted that it was from a Mrs. Wendy Trigg who owns the bus depot in Portland, that being Portland Coach Company of PO Box 633, Portland Victoria, 3305. I rang Mrs. Trigg and she confirmed that she had attempted to facsimile her particular message to me on three occasions. I told Mr. Anderson this and told him of Mrs. Trigg's address at Kennedy Street in Portland. Mr. Anderson then tested my facsimile by calling Melbourne faxing centre and having them fax a message through to us. This facsimile message worked and Mr. Anderson left with the parting comment of "I cannot find any fault with your facsimile machine".

I later that day received advice from Mrs. Trigg that Mr. Anderson from Telecom had attended at her residence and then carried out tests upon her facsimile machine. Mrs. Trigg stated that in all of the conversation she had with Mr. Anderson, it appeared Mr. Anderson considered that the entire problem was at my end with my facsimile machine.

I believe that this particular incident highlights the demeanour and attitude of Telecom in respect to investigating my ongoing problems.

After the comments of Mr. Anderson on the 13th April, 1992, I immediately removed the answering machine from my line and I did not replace that answering machine until April of 1993. Therefore, I say with complete confidence that there was no answering machine on my telephone line or service for a period of 12 months. It is evident from the material before you Mr. Arbitrator, that this did not extinguish my telephone problems.

I have had hundreds of contact with Telecom personnel including telephonists, technicians, Telecom management staff, Telecom Network staff over the 6 years that these matters have been ongoing. Telecom has spent thousands upon thousands of dollars in equipment and man hours in attempts to identify and correct the problems that I have had with my phone service. They have been unable to do so. During this time Telecom have on occasion, at the technician level, identified problems as faults that I have had, however, at the management level they have denied, negated and trivialized the complaints that I have made.

WHAT HAS THE IMPACT BEEN ON MYSELF IN RESPECT TO THE KNOWLEDGE THAT MY PHONE HAS BEEN UNLAWFULLY TAPPED AND CONVERSATIONS RECORDED?

Telecom have admitted to this to the Federal Police and to Austel. I have received verbal confirmation from Detective Superintendent Penrose of the Australian Federal Police recently that Telecom did in fact tap my telephone. Unfortunately, although I suspected Telecom of being quite likely to go to this extent, my despair as an honest hardworking citizen cannot be explained in mere words. I can only wonder at the reasons that Telecom considered this line of monitoring. Did they really consider that this was the only way to come to terms with my problem and if this

is the case then why has the problems not been solved? The other reason of course is the most worrying from the small businessmen's point of view. Did COT really present such a threat to Telecom's management that they felt that they had to voice monitor our conversations?

I can assure you that I don't ever feel I can again pick up the receiver of a telephone without suspecting that Telecom is invading my privacy. What sort of corporate monster is the management of Telecom to suspect that an organisation of democratic citizens such as COT could be anything but a small number of persons seeking natural justice in what is touted as the country with the most freedom and civil rights?

THE FOI'S AND TELECOMS UNWILLINGNESS TO SUPPLY SAME?

The fact that this statement of claim has been jeopardized by Telecom's inability to maintain records and unwillingness to supply the documents that they do possess. Does this unwillingness also go some way to explaining the actions of Telecom in voice monitoring some members of COT?

THE IMPACT THAT THIS MATTER HAS HAD UPON MY FINANCIAL STANDING IN THE COMMUNITY:

You will observe from my Accountant's report my current financial status. For a considerable time now I have had to beg, borrow and promise in order to keep Cape Bridgewater Holiday Camp and convention centre afloat. You will note that this indeed a far cry from the simplistic but very real expectations I had for Cape Bridgewater when I first purchased the business. All

of the actions that I have had to take have led to the following:

1. The fact that local businesses will not come out to the camp any more due to my not being able to reimburse or pay my accounts on time.
2. The fact that I cannot obtain credit. I have an extremely poor credit rating due to my inability to repay on time and also because people have had to take legal action to recover debts that I have just not been able to service. (Ref p 2066) (I have others, Telecom accepts this).
3. The business environment just does not suffer repeated or current telephone problems. You will note that Telecom's own document of 3 November 1993 concurs.

'...it has become apparent that the present Recorded Voice Announcement(RVA) for incorrect numbers requires revision.....The problem arises when equipment or customer faults cause customers who are calling legitimate numbers to be connected to this message. In a business environment, especially in these times, this message tends to give the caller the impression that the business they are calling has ceased trading, and that they should try another trader.' (Ref p 1248)

Well I am certainly aware of this, Mr Jim Constandinidis wrote in 1992 that he was not prepared to invest in my business after experiencing these telephone problems and deciding that this business was an unacceptable risk due to the telephone service. (Ref.pp 2005,2006)

I have also lost business because of the problems, most of that lost business I can't identify because

if I can't be contacted then I never know of the persons wanting to make bookings. Fortunately some people have been considerate enough to correspond to notify me of their problems however it is too late by then. (Ref.Pp 2012-O'Meara, 2013-Broadhurst, 2023-Werrabee Outreach, 2029-Walker, 2034-Centre for Adolescent Health, 2038-Camping Association, 2039-Prahan Secondary School, 2048-Black, 2055-Espirioza.

WHAT ARE THE FUTURE PROSPECTS OF THE BUSINESS IF IN FACT TELECOM ARE JUST TOTALLY INCAPABLE OF FIXING THE TELEPHONE SERVICE?

I am aware, Mr Arbitrator, that this particular question perhaps need not be addressed by yourself in that you are only considering a certain period in time. Unfortunately I feel that I need to place on the record that I am concerned that upon any settlement, that my telephone service may not once again be corrected to meet Network standards and this whole affair may be revisited. I need not remind you that I have previously been down the settlement road with Telecom and been guaranteed service. In view of all of the evidence before you I believe that Telecoms ability to be able to provide the service that I require to ensure the maintenance of my business in the future cannot be guaranteed. My plans will be to hopefully adopt some alternative type of telecommunications service if that is proven to be an option. I believe that I am correct in asking that you place some responsibility upon Telecom to pay the establishment costs of such service.

HAVE I CONCERNS RE TELECOM'S MONITORING AND ABILITY TO BE ABLE TO ACCURATELY RECORD AND IDENTIFY FAULTS OR PROBLEMS?

Yes.

Over the period that I have experienced this problem Telecom have on a number of occasions placed equipment into the service that they believe will identify the problems. From my own personal experiences, I do not believe that the equipment used by Telecom in this regard has the capability to establish and identify the fault that I have with my service. I believe that the Austel report of April, 1994, the Coopers and Lybrand report and the Bell Canada International report on Telecom's fault monitoring and the ability to attend and resolve faults quite clearly states that Telecom are inept in this regard.

I would like to turn your attention, Sir, to (Ref Pp 0700 - 0756 incl). You will note the (Ref p 1049 refers to in the heading re paragraph 8 that I reported problems for a quarter from Daylesford area. You will note that Telecom then conducted their own enquiries as to what the CCS7 data had established that was currently monitoring my phone. You will note that the CCAS data for these calls demonstrate conclusively that I received the calls (Ref p 755) at 16.00, 16.27, 17.19, 17.20 and 17.20 on the 17th August, 1993, and one call at 10.49 on the 18th August, 1993.

You will note that if you turn to (Ref p 7.54), my itemized 008 account, the corresponding calls are recorded and charged. If you look carefully at the column headed minutes seconds, you will note that on the first occasion the wait time for the call was 12 seconds and conversation time for

the call was 28 seconds. You will note that I have been charged for 15 seconds.

You will note that in respect to the second call, the CCAS data when compared to the telephone bill was 483 seconds which equates to 8 minutes and 3 seconds. On this occasion both documents agree. The next item is for the call 17.19. The CCAS data states this call was for 21 seconds, however I am only charged for 12. You will note that the CCAS data for the next item 17.20.02 states the conversation time was 26 seconds. You will note that I am only charged for 22. You will note that the next incoming answered at 17.20 and 49 state that the calls was of 31 seconds duration, however I am charged for 28 seconds. You will note that the following day at 10.49 a.m. I received another call and it is documented by the CCAS data as being for 200 seconds or 3 minutes and 20 seconds. You will note that my bill also states 3 minutes and 20 seconds.

You will also please note the internal file (Ref p 725) which demonstrates that the receptionist on the 1100, being a Tina from Bendigo, put this caller through. The person who tried to call me was Jackie Cullen.

I would like to highlight that all of the phone calls on the CCAS data were never received at my premises, as you will note from (Ref p 725) Ms Cullen received a dead line when she attempted to ring. I heard the phone ring, picked up the phone and all I heard was an echo. This shows that if a call is made and a fault occurs, the CCS data cannot interpret that call was a fault and therefore all of the Telecom monitoring devices still consider that a call has been effected.

As a sideline, I wonder how many calls I have been charged for when I did not receive these calls. It is, I believe, of value to inform you of documents (Ref p 2061 and 2096) of this report. (Ref

p 2061) is under the hand of the previous caller from Daylesford Neighbourhood House, Mrs. Jackie Cullen. This letter clearly demonstrates the ongoing concerns that I have had with my phone service. Here is a person who not only experienced problems contacting the camp to arrange business, but then once at the camp, further experienced the problems in that the gold phone would just cut off. (Ref p 2096 is a corroborative statement from a Steve Bartlett who also attended the camp with Miss Cullen from Daylesford Neighbourhood House.

To further demonstrate the concerns that I have, as do Austel, BCI and Coopers Lybrand with the testing, I would like to highlight (Ref p 1258 - 1285) and the amount of occasions where these Telecom recording devices have detailed a conversation that took place that was very short. For example, (Ref p 1260) incoming call answered, conversation time 1 second, incoming answered, conversation time 2 seconds, incoming answered, 1 second, incoming answered 4 seconds, incoming answered 2 seconds, incoming answered 4 seconds, incoming answered 1 second, incoming answered 0 seconds, incoming answered 1 second, incoming answered 3 seconds, incoming answered 3 seconds, incoming answered 4 seconds, incoming answered 1 second, incoming answered 4 seconds, incoming answered 2 seconds.

You may also wish to take particular notice of this testing where it shows a ringing, a number of rings, a date, a seizure, a conversation time and the end of seizure. You will note (Ref p 1267) demonstrates that the seizure was at 11.02.03 and the end of seizure was 11.17.20, however it was outgoing unanswered. Surely the phone doesn't ring for 15 minutes and 17 seconds.

Mr. Assessor, I am sure if you have your technical people study all of the monitoring that had occasion to be placed upon my service, they will be left with the same conclusions that the other

bodies who have studied Telecom's monitoring/testing methods, and that is that very little cognisance can be placed upon them.

HAS THIS ONGOING DISPUTE AFFECTED MY HEALTH AND WELLBEING?

Yes, I believe that this dispute has had considerable affect on my health and wellbeing. I really do feel that I am a broken man. I have been told by friends and relatives that I am not the same person I was at the time of purchasing the business. I feel that a majority of this change is attributable to the conflict I have had with Telecom. You will observe (ref.Pp 2153-56) that I have recently attended a psychologist in order that I could offer you some assistance with your deliberations in this regard. You will note in summary that the psychologist is of the opinion that I do suffer from major depression as well as an anxiety disorder associated with stresses that I perceive as traumatic. You will also note that the psychologist states that I have contributed to my ongoing difficulties by maintaining an intense preoccupation with the same. Mr Arbitrator, I can only but agree. It is virtually impossible for me to consider anything else when this ordeal has consumed my life for six years. I believe that it would be similar to having a dying child for six years and you are left in the hands of specialists not knowing whether one day they will find a cure for your child or not. That is certainly how I feel. This business in my life.

SUMMARY:

Mr. Assessor, I have tried to bring to you sufficient information so as you can make a qualified decision in regard to this claim. I am sure that you will feel that the evidence before you of a massive phone problem is quite extensive. I am sure that you recognize that the evidence before you is certainly not all that is available. It is of course most of the evidence that is available to me. Sir, I ask for nothing more than a fair go. I do not believe that I have gotten this from Telecom.

Sir, I would like you to take all of the evidence before you of all of the problems that I have experienced, all of the reporting documentation which is totally independent to myself or to Telecom from persons who have had contact or tried to contact me via my telephone service.

Perhaps one of the best methods of assessing the validity and extent of this claim is to look at what we have before us. It is my belief that you would have to determine these questions

1. Has there been ongoing problem for the period of the claim? My answer to this is that yes, on all of the documentation before you, you would have to form the opinion that a problem has certainly existed with the telephone service provided to myself at Cape Bridgewater.
2. What has caused the problem? It is, in my view, a question of whether you consider that the equipment that I have placed upon the phone or the manner in which I have dealt with the phone has caused the problem, or alternatively, the problem has been caused by the equipment and standard of service provided by Telecom. You will no doubt be aware, after having read this letter purporting my claim, that Telecom have, on occasions, nominated that the problem has been largely contributed to by the manner in which I have either used a fax machine, a portable phone, an answering machine or the manner in which I have used my phone, ie. failing to place the phone back on the hook. I would suggest to you to take into consideration the following points. If the problem were the answering machine, then why did the problems continue after the answering machine had been removed for 12 months. Secondly, if the problem was me leaving the phone off the hook, then why is it that not all persons reported simply an engaged signal. If the phone problem was caused by my misuse of a cordless phone, then why is

Exhibit 9
Alan Smith's
Reply to Telstra's Defence

18 January 1995

Dr Gordon Hughes
Arbitrator
C/- Messrs Hunt & Hunt
Lawyers
GPO Box 1533N
MELBOURNE VIC 3001

Dear Dr Hughes

**ARBITRATION - TELECOM - ALLAN SMITH -
CAPE BRIDGEWATER HOLIDAY CAMP
REPLY TO TELECOM'S DEFENCE DOCUMENTATION**

Mr Arbitrator I would like to draw attention and address the following issues in respect to Telecom's Defence Documentation.

SECTION ONE

Initially I would draw your attention to the Telecom document headed Witness Statements which has eighteen sections.

Statement One - Rosanna Noelle Pittard

I note Telecom's defence to contain the statement from Ms Pittard indicating at point 3 in regard to previous payment for loss due to telephone service that Ms Pittard has not supplied supporting documentation to her statement. I would submit that the Telecom document obtained under F.O.I. number C04006 (attached) would clearly demonstrate the real reasons in respect to the payment for loss due to the telephone service. You will note that point 16 is particularly relevant and contradicts Telecom's defence.

Ms Pittard as the General Manager admits Telecom's defence is doubtful on causality and I would submit that this matter is extremely pertinent to your assessment of my claim.

I find it interesting to consider that Ms Pittard is General Manager of Telecom Commercial Victoria/Tasmania and that she has mentioned nothing about my phone faults. It is also interesting as to why in the last six months of 1993 she instructed me to refer all complaints to Freehill Hollingdale & Page, Telecom's Solicitors. I would refer you to Appendix Telecom Defence documents Appendix 3 at 23, Ms Pittard deliberately attempts to hoodwink Freehill Hollingdale & Page, to downplay my communication/telephone faults. I would consider that this only showed Freehill Hollingdale & Page a one sided overview of the Cape Bridgewater Holiday Camp. I would submit that for Ms Pittard as General Manager of Telecom Commercial Victoria/Tasmania to take these actions and execute these actions is one of negligence and a breach of statutory duty.

The fact that Ms Pittard hid the truth about my known phone faults, the ones that Telecom Commercial had acknowledge as factual is undoubtedly deception. I consider that Ms Pittard has misled Ms McBurnie of Freehill Hollingdale & Page who at the time was my Telecom contact.

I would also note that Ms Pittard mentions nothing in her Statutory Declaration about my considering applying for F.O.I documents in 1992, documents on registered faults, 1100 and the Warrnambool Exchange. I note Telecom Defence document Appendix 5 at 22 is one page of a two page letter from a Peter Taylor, Telecom employee of Warrnambool Exchange. It appears that Telecom forgot to produce the other page of this letter in their defence documents. For the benefit of the Resource Team I shall supply the information on the missing page from memory, "Sorry Mr Smith, there are no historic documents prior to June 27, 1991." This would appear that not only do we have Ms Pittard as Telecom Management in 1993 downplaying my faults, we also have Telecom Commercial supplying an inaccurate statement on registered faults prior to 1991.

I would question Ms Pittard's remarks in her letter to Jim Holmes, Telecom Corporate Secretary, (please refer Cape Bridgewater Submission One). These particular remarks show that Ms Pittard considered charging me for F.O.I documents in early May 1993 even if the F.O.I documents that I sought were not available. "I have enclosed this document and attached it hereto." The document is not numbered so I have called it C5.S. I would also table a letter as a result of my F.O.I request and dated 17 June 1993. (Refer CBHC Defence reply Appendix attached hereto). The author of the letter is Rosanna Pittard and I quote:-

"I refer to our telephone conversation regarding the material contained in Mr Macintosh's briefcase.

Please find attached a letter from Austel requesting information regarding the incident whilst I can respond to the details regarding the information provided to him at the time of settlement, I cannot comment on the variation between what Mr Smith was told and the contents of the Network Investigations files. I need your assistance for this.

Can we discuss as soon as possible please?"

I would note that this letter is addressed to Network Investigations.

I feel that it is an appropriate time to indicate to you my interpretation of events of 11 December 1992, my date of settlement. I recall that I arrived at 10.00am and left for lunch at 12.10pm I arrived back at 1.00pm and finished at approximately 2.15 to 2.30pm. I would make mention that I had no legal representation and was completely on my own. I recall using the telephone twice. The affair, the bizarre type of negotiations, started at bargain basement style: \$20,000.00 was offered, then \$40,000.00 and then Ms Pittard left the room. On her return, she showed me two letters of guarantee that my phone was now up to network standard. These letters I had already seen, one was from Bob Beard, General Manager, Telecom Commercial. I was told by Ms Pittard that Telecom had only found one fault, which was in MELU switching and related to a wrong data program. According to Ms Pittard this fault had lasted only three weeks and a few minor problems had been uncovered. At this point \$60,000 was in the offering and I showed Ms Pittard some letters from past customers who had experienced difficulties in contacting Cape Bridgewater Holiday Camp and Convention Centre.

As stated above at 12.10 I went to the Village Green (a Hotel in Springvale Road and close to Telecom Commercial), for lunch. When I arrived back for my second bout of negotiations at 1.00pm we started hassling over what would happen if I chose to go to Court considering I had no evidence as such. I recall that Ms Pittard deliberately stated that Telecom had time on their side which in my opinion Ms Pittard was attempting to say that Telecom would stretch me financially in respect to getting to Court. At \$80,000.00 Ms Pittard once again left the room giving me time to think.

Mr Arbitrator I would refer you to point 30 in Mr Anderson's statement and I believe that this again shows that Mr Anderson has an ability to not completely represent the true picture of events. Mr Anderson states he organised test calls from Ballarat to 267267 and I would point out that he failed to mention that these calls did not get answered. A note Ross Anderson states several test calls were made and the 267267 telephone rang. Ross Anderson was at my business. It would appear strange he didn't take the trouble to answer those seventeen test calls. Dr Hughes like the time with my answering machine and my cordless machine, things did not register correctly. I ask the Resource Team to check my 008 account for those seventeen test calls and note that I was charged for those calls yet the conversation time ranged from two seconds to five seconds.

Ross Anderson has clarified one thing in his statement, the telephone rang ok, he never mentioned he answered the test calls, how could he have a two second conversation or a five second conversation with a fellow Telecom technician.

I have continually complained to Telecom, Austel that I have been incorrectly charged for my phone service. This is just one of many incidents where there is proof yet still denied by the powers to be within Telstra.

Statement 3 - David John Stockdale

I would argue that Mr Stockdale's assessment of RVA problems at points 9 through 12 inclusive is understating the problem. I refer you to pages 14, 15 and 16 of my Second Report of Cape Bridgewater. I doubt if Telecom really know the periods of this fault and I suggest investigations and evidence already presented in my Submission confirm recorded voice announcements throughout the period of my claim. It is interesting that Mr Stockdale mentions only one fault of substance was found to be a problem on my service. If this is the case then Rosanna Pittard, Telecom General Manager Commercial Victoria/Tasmania has badgered me into a settlement of \$80,000.00 for one fault of substance. Perhaps by this arrangement Ms Pittard has set a precedent. I consider that you would find throughout your investigations that I certainly had considerably more than one fault of substance.

This document states that on the week ending 11 September 1992 another lightning strike has damaged the PTARS.

In this regard Mr Arbitrator I would ask that the Resource Team pay particular attention to the article Can We Fix The Can Appendix Cape Bridgewater 2 Page 79 re lightning strikes. I would quote directly from this article:-

"Lightning strikes are being encouraged by our own actions. Our focus is on quickly getting to the fault rather than preventing the fault. As a result we are ensuring that we get hit by lightening far more often."

Mr Arbitrator apart from drawing the obvious conclusion that Telecom have had a serious problem with lightning strikes in the Cape Bridgewater area for the entire period of my claim, it would appear to be somewhat concerning that Mr Anderson pays particular attention to his statement in all eight pages, however when it comes to lightning he refers to one minor issue on the 8 March 1994, you will note that Mr Anderson is a person who has been with Telecom in Portland for 22 years. You would have to consider that there is a glaring breach of the duty of care or that there is negligence and misleading and deceptive conduct on the part of Telecom and its employees at Portland in not recognising the problems concerned.

Mr Arbitrator I would submit that this particular incident on page 5 of Mr Anderson's statement would have you wondering and would be one particular issue that your Resource Team would want to pay particular attention to. Not only can't Telecom acknowledge their problems but would like to remove the blame into the simplest category that they can. Mr Arbitrator as a result of what Mr Anderson is saying in regard to heat, cooling and moisture you would ask that your Resource Team examine the possibility that the Cape Bridgewater RCM was affected by moisture over the entire period of my claim. Due to the fact that it would appear that the RCM could not be properly sealed I would suggest that you would have to draw the appropriate conclusions based on what I consider would be necessary investigations into this aspect of Telecom's defence.

Therefore records of nine of these three month periods are missing. How many faults are there? You will note that my Submission of Cape Bridgewater Number Two shows thirty faults from 13 January 1992 to 14 August 1992. There are also sixteen faults shown between April and May of 1993.

You would note of course from reference 1145 of my Cape Bridgewater Holiday Camp Assessment dated the 12 June 1994 that on the 4 June 1993 Telecom have sixteen pages of faults between the 2 April 1993 and the 4 June 1993. The eight pages I have previously referenced above contain one hundred and sixteen faults with obviously nine of the twelve quarters missing. If we take into account that document 1145 shows sixteen pages for a two month period, then I would believe you would conclude that the equation would be that for every quarter there are one hundred and sixteen faults shown. The period of my claim is over six years therefore $24 \times 116 = 2,784$ complaints from sixty seven to eighty consumers.

I believe you would conclude a serious doubt hangs over the statements by Telecom's senior "knowledgeable" technicians for the Cape Bridgewater area.

Mr Arbitrator I would refer you to Page 5 of Mr Anderson's statement with the title Incident with Portland to Cape Bridgewater RCM System Number One 8 March 1994. I would ask that you cross reference this particular incident with the Witness Statement of Mr Banks. At point 13 Mr Banks states that lightning affected the RCM at Cape Bridgewater in late November 1992. Mr Banks however fails to conclude that this fault appeared not to be fixed until late January 1993. I would refer you in this regard to Telecom Defence Appendix 1 at 11 documents D402 on the 9 February 1993. I would also point out in Mr Banks' statements he fails to mention that just seven days prior on the 2 March 1993 that he had found several problems with the RCM System Mr Smith was previously connected to. Mr Banks has not shown the above fault to be of much significance and I would ask the Resource Team to combine further evidence that the lightning strikes mentioned by Mr Banks and in this statement of Mr Anderson are significant. In this regard I would refer you to Telecom Defence document Appendix 5 at 32 at number R01447.

- F. I have not left my fax on auto simply due to the fact that I use 055 267230 for outgoing calls. My facsimile machines (two) have been both new and have been installed by professionals. The first facsimile machine was installed by Mark Ross of Telecom and the second machine was installed by Greg from Retravision in Portland. Mr Anderson states in relation to my facsimile line 055 267230 that Portland technicians have attended my premises on at least five occasions. Mr Anderson has neglected to mention his own difficulty in sending facsimiles whilst he attended at my business.
- G. Businesses at Cape Bridgewater. I would draw your attention to the matters at point 37 of Mr Anderson's statement which in my view are questionable.

I have made inquiries and established that none of the "alleged" commercial enterprises or business persons are in the Yellow Pages Directory of Telecom, as a Cape Bridgewater business.

Further, I would bring to your attention that Mr Anderson's "knowledge" at point 38 is questionable. Mr Anderson does not supply the service records and fault histories of these telephone numbers to support his statement. Unfortunately, I would suggest for Telecom, I have located in the defence documents, (please refer to Appendix 5 numbers 19 and 20), fault records that indicate a number of these services have experienced faults. In particular Mr Anderson's "personal friend", Mr Wilson, reported eight faults on both lines between January and March of 1994.

Mr LePage reported five faults between March and May of 1994. Mr Blacksell reported five faults between October 1992 and May 1994. Further, I find that the Seaview Guest House that opened in 1994 (267217) has reported five faults between March 1994 and July of 1994.

The records of faults only cover brief periods of time, that is 3 three month quarters of a period of three years from August 1991 until September 1994. Refer Appendix 4 number 30, Appendix 5 number 20, Appendix 3 number 46, Cape Bridgewater Submission Number Two reference AI Cobpack Adhoc Request.

- D. Please refer to page 2/3 with a heading Answering Machine. I have previously explained the answering machine in my letter of claim document dated 12/6/94 at pages 45 to 46.

I do not agree with the account by Mr Anderson, at point 13 where he states that I did not have the Instruction Booklet because the answering machine had been given to me. I can say that I purchased the answering machine from Portland Bulk Store new and I now enclose the Instruction Booklet. If Mr Anderson had asked for the booklet he would have been provided with the same. I believe that Mr Anderson has fabricated this evidence to suit Telecom's defence.

The statements of Mr Anderson at point 11 also seem strange in that he would have a test call made, on his account, by Mr Crease for the length of thirty seconds on the first occasion prior to hearing any click. This would therefore suggest that he did not have any evidence before him at the time to even consider the answering machine as the problem. I would note that all of the test calls made to my premises have been short duration three, four, five ring calls and I believe Mr Anderson should be made to clarify his statement and to produce any contemporaneous notes in regard to his allegations.

- E. In regard to the cordless phone allegations at page 14 to 21 inclusive, I would simply deny the accuracy and substance of the same. I can state that I only had the cordless phone for a period of three months and during that time I had two different phones (at separate times) on the advice of Mr Ray Morris. I would refer you to F.O.I. document A09452 in regard to Loveys Restaurant (*another C.O.T. case*). It would appear Telecom are, as I have previously stated in my Letter of Claim dated 12/6/94 page 44, eager to place the fault on customer equipment.

In my submission you would put no weight on point 26 of the statement in relation to the Gold phone. This is uncorroborated, unqualified and not substantiated in the defence documentation.

- A. At point 4 Mr Anderson indicates that I took over telephone service 055 267267 on the 6 April 1988 at the Cape Bridgewater Holiday Camp from the previous owner. In fact, as I have previously stated at page 10 of my original letter of claim dated 12 June 1994 I took over Cape Bridgewater Holiday Camp in February 1988 and thus the telephone service.

I make mention of this due to my correspondence to Telecom in 1989, in part addressing the problems I had with Telecom in having them recognise my business as a commercial service. Refer documents 2104 to 2106 of the Cape Bridgewater Assessment Submission 7/6/94.

- B. At point 5, acknowledgment is made of faults on 1100 having been experienced. Previously Telecom have denied that any correspondence exists in regard to this reference document 1289 Cape Bridgewater Assessment Submission 7/6/94.

I now note at Section 25 of the Telecom defence document Appendix file number 5 they have managed to locate details of six faults in 1988 and two faults in 1989 for 055 267267. You will note the same document refers to fault on my Gold phone 055 267260 a month after installation in August 1988.

- C. At points 8, 9 and 10 a reference is made only to 1992 onwards. I am concerned about the accuracy of Telecom's statements about documentation in respect to the years prior to 1992 due to the above paragraph B.

Technicians from Portland certainly attended my premises on a myriad of occasions prior to this. Due to Mr Anderson's early statement at point 2 that he has been at Portland for twenty two years, I would request that you undertake inquiries to establish the technician's records of service for the Cape Bridgewater area prior to and during my time at Cape Bridgewater Holiday Camp. Surely Mr Anderson or Mr Bloomfield or other technicians could give evidence on oath as to the problem they have attended to with the Cape Bridgewater area.

Her parting words were similar to "That's as far as I will go, Mr Smith it's up to you." Due to the stresses placed on me at the time, the fact that I felt that Telecom was threatening me with tying me up in legal action I took the settlement. I took this settlement because I believed Telecom at their word in respect to faults.

I now find that Telecom did have records of faults prior to June 1991. I find also that Telecom withheld documents from my hearing with Ms Pittard. I can also note the connotation of Ms Pittard's letter to Network Investigations, "I cannot comment on the variations between what Mr Smith was told on the settlement day and the contents of the Network files." I would state this, in closing, in respect to Ms Pittard's Statutory Declaration: I have been misled in not only the negotiations at the settlement in 1992, but I was also deceived in regard to my F.O.I. Application in 1992. How many unethical business transactions would Telecom expect me to swallow. When I showed that I had had enough I was cunningly transferred over to Freehill Hollingdale & Page where I was misled and deceived by them also. Perhaps, inadvertently, stress nearly won the day for Telecom. The fact that a fault report, via Freehill Hollingdale & Page Telecom's Response Unit, could take up to two weeks to get an answer mattered not to those in charge of Telecom Commercial. Breach of terms and conditions for the supply of a Telecom communication service has taken place.

Mr Arbitrator you would find that Telecom has been negligent in their dealings with my phone service and the actions of Ms Pittard in refusing me historical fault information prior to the settlement was not only negligent, misleading and deceptive, it was also unconscionable conduct. Mr Arbitrator you would also have to wonder about Ms Pittard's statement that I had unlimited use of a telephone and that she was aware that in her absence I made several telephone calls during the negotiation period. Was Ms Pittard that concerned about me that she had this telephone monitored?

Statement Two - Ross Stewart Anderson

I would address the following issues in respect to the defence statement of Mr Anderson.

Mr Arbitrator I would note that in the Telecom Defence documents Appendix 5 at 27 Mr Stockdale responds to this particular RVA MELU fault being for a period of only three weeks, that is states that if the fault had been before March 16, complaints would have been lodged before that date. Mr Arbitrator you would find that it has been already established by my own correspondence in my letter of claim documents 2000 to 2158 that Gladys Crittenden and Robert Palmer of the Heywood Primary School had complained of RVA in October of 1991.

You will note Mr Stockdale's statement treats lightly some very important matters. Point 12 demonstrates that even Telecom's so called super team of investigations, National Network Investigations, do not know how many short duration test calls would cause the entire system from Hamilton to Portland to block.

At point 15 the super team forget important documents whilst attending at my residence. At point 16 the statement by the "head" principal investigating officer demonstrates his abilities in regards to overlooking an important document. You will note that Mr Stockdale explains this matter as simply an oversight. At point 17 of the statement Mr Stockdale once again demonstrates the inadvertent causing of a fault by Telecom during testing by the "super team".

One would consider that Mr Stockdale would have learnt a lesson from the manner in which he has conducted his investigations, however I note that in his statement at point 10 he states that the problem existed between the 4 and 19 March 1994. Of course it was 1992. Even if this matter is simply a typographical error I would suggest that this simple but obvious example of not performing adequate tests and checking of the final product reflects on the abilities of the entire investigation overseen by Mr Stockdale.

Statement 4 - Gordon Stokes

I would take issue with Mr Stokes' unqualified assumption that most of my clients would call during 9.00am to 5.00pm. You will note from my summary of clients per annum for the period of claim that 47% of my clientele is Singles Clubs, Social Clubs and large group bookings apart from Schools. Most of these people make their bookings outside business hours. I note that Mr Stokes does not supply any supporting documentation for his assumptions.

At point 15 I believe Mr Stokes has attempted to say I could not have suffered RVA.

If you read Mr Stokes' file note in the Cape Bridgewater Submission Number Two (attached) it clearly states that faults relate to my service. If this fault does not relate to my service why put it in the file note about 267267? Has Gordon Stokes of his own volition, or with the assistance of others, tried to cover an admission of fault. You will note RVA has been one of my most common problems reported. (Refer CBHC Assessment Source Documents reference 0001 through 1258). Mr Arbitrator I would consider that you would have great doubt in believing the truthfulness of Mr Stokes' explanation of this admission in relation to my service.

At point 19 (you will note there are two point 19's - it is the point headed EOS Tracing). It seems odd that Mr Stokes now states I was voice monitored for "several months" when in F.O.I. document number K00701 reference Cape Bridgewater Part Two (copy attached), this document states I was voice monitored for two months from June 1993 to August 1993.

I bring your attention to point 20 and I deny these statements. I believe Mr Stokes should be made to produce the notes that one would consider after hearing such an important fabrication by myself that he would record and report the same. Why would I say such a statement in close proximity in a very small room in front of someone who I considered would report it? I can honestly say that I did not make this statement as alleged by Mr Stokes.

At point 21 I would bring your attention to the fact that this telephone was not off the hook. I simply picked the telephone up and put it back down into its cradle. I would bring your attention to the fact that I've complained of this type of problem before.

I now draw your attention to point 23 and state that I believe I have had lock-ups.

I refer you to reference documents attached hereto "diary notes" and other problems in Portland/Cape Bridgewater area. Lock-ups would appear to be a common problem. I have encountered lock-ups on numerous occasions and have submitted examples in my original submission dated 7 June 1994 reference numbers 0295, 0296, 0298, 0299, 0301.

Also further reference I have indicated in CBHC Defence reply Appendix and the survey in Telecom Defence document Appendix 5 at 24 is investigating lock-ups.

Conclusion:

I draw your attention to Mr Stokes' conclusions and I would like to say that I believe that Mr Stokes' conclusions are inaccurate and borders on the ridiculous. I would request that you have Mr Stokes or/Telecom produce the file on the other 7,000 subscribers and my file for the period 1990 to 1994 when Mr Stokes maintained the problem Exchange. Mr Stokes simply cannot be serious about the level of performance. I refer you to the amount of faults for the area and the fact that from 1990 260 customers have had CCAS equipment on their lines. One would question how Gordon Stokes can claim that there is no problems in Portland.

I would state that I am most concerned about Mr Stokes dismissal of any problems in the Portland Cape Bridgewater area. You will recall Mr Stokes is a person whom I have complained to the Federal Police as unlawfully voice monitoring my telephone. Mr Stokes has now every reason to express adverse feelings towards me and I believe this is reflected in his statement. I have doubts about his integrity when he has in the document Cape Bridgewater Part Two at pages 57 to 61 stated that the CCAS data showed no evidence of the same. Mr Stokes also states on page 57 the diary note of the Cape Bridgewater Part Two that the ELMi Smart Ten was disconnected. Obviously from page 58 to 61 it was not. The evidence is there that the phone calls dropped out.

From the appearance of this document and the date change from the 14/3/92 to the 15/10/92 I believe it clearly shows a total fabrication by Mr Stokes. I believe that Mr Stokes may have fabricated a significant amount of any evidence. Mr Stokes cannot be believed, in my submission, due to the proof of his false reporting.

Statement 5 - Terrence Black

Mr Black would appear to obviously not have been informed of Telecom's can we fix the can document reference F.O.I. documents 101042 to 101049 inclusive Cape Bridgewater Submission Two. (Please refer to the comments by George Close & Associates).

Mr Black states that monthly he checked the old RAX at Cape Bridgewater. He goes on to say these monthly checks were nearly always 100% successful. I draw to your attention the Telecom Defence document Appendix 5 at 8 K02503. This document states the author explained to me in 1991 that from the fault history that the problem may be in the Exchange and that the new RCM would solve the problem. It states that on the 15 August 1991 he believed the problems were caused by - specific Exchange faults, due to the age which could be solved by a cut over to Portland AXE.

During the oral hearing in Melbourne, at your office Mr Arbitrator, I tabled one of two documents which was included in my claim. The Telecom document in question stated Mr Smith was connected to an older Exchange which suffered faults and congestion. I would further refer you to a letter addressed to the Commonwealth Ombudsman's office to Miss Jill Carter, Telecom's Corporate Secretary Mr Holmes states Allan Smith did have some significant telecommunication problems over a period of years. Several faults were found in the Telecom network and subsequently rectified. (This letter contained in Cape Bridgewater Holiday Camp Defence reply Appendix number C.5T is further evidence that supports the allegations that Telecom has practised misleading and deceptive conduct.)

If I can refer you back to Appendix 5 at 8 we see some forty four monthly test sheets, these includes those supposed tests over the same duration. Not one of those forty four test sheets are signed either by Mr Black, Gordon Stokes or others from Telecom. It would appear strange that Mr Black's testing could be nearly 100% accurate, you would only have to look at the documents to consider that they may have been changed. They are in direct contradiction to Telecom's own documentation where it states in two documents that the system Mr Smith was connected to before cut over suffered faults and congestion and a letter to the Commonwealth Ombudsman where Mr Holmes stated that Mr Smith did have some significant faults over several years. Mr Arbitrator my submission you would view Mr Black's supposed testing with a great deal of suspicion especially in regard to the accuracy of the testing results. I am led to wonder if Telecom employees actually do the testing or just have to write up the results.

Statement 6 - Leonard Banks

Once again we have evidence of conflicting prior statements. This document has obviously been drafted in an attempt to convince this procedure that a previous statement of omission should not be paid any attention. One wonders who in management had Mr Banks provide his conflicting statement.

I have already canvassed the attitude of management in relation to the lightning strikes. I would just make mention that Mr Banks does not continue his report. He states only that the RCM was affected temporarily by a lightning strike in November 1992. I would refer you to Telecom Defence documents Appendix 1 at 13. I would note that this document states this fault "appeared" to be resolved by late January 1993. Once again I refer you to the fact that Portland technicians Gordon Stokes and other included have had us believe that they check the RCM at Cape Bridgewater on a regular basis. I would point out that this RCM is only twenty kilometres from Portland. I would consider that if this was the case then how did this one fault of many go undetected for three months. I would again refer you to the Can the Can document page 5 in relation to the statements by Mr Banks on cause and timing errors. I would quote the last paragraph:-

"Any area which claims to be a high lightning area, is admitting to poor maintenance procedures."

In the Cape Bridgewater second submission further examples of additional evidence of faults 23 September 1992 "Some problems with PTARS as it was affected by lightning strike. This PTARS is housed at the RCM Cape Bridgewater."

Mr Arbitrator this was in September 1992, two months before the lightning strike Mr Banks has mentioned was in November 1992. Once again Sir I would ask that the Resource Team address whether this was the same lightning strike fault of November 1992 or as the Can the Can document suggests just poor maintenance practices. I would refer you to additional evidence in the Cape Bridgewater second submission page 4 lightning strike 267260 MTU (CW). This was a complaint by myself.

I would submit that the reading of these three examples of lightning strike faults can only lead one to form the opinion that the author of the *Can we fix the Can* would be of the opinion that there was poor maintenance practices from Portland technicians. In other words negligence in the highest form.

Statement 7 - David Charles Conway

Again a statement which uses the word "possibly". I would refer you to the *can we fix the can* document in relation to lightning strikes, reference document CBW2.

Statement 8 - Raymond Allan Morris

Mr Arbitrator I would refer you to point 7 of Mr Morris's statement and I would submit that Mr Morris has told a deliberate lie to confuse the Resource Team into believing I am incompetent. In Mr Morris's typed Telecom notes K02916 I have underlined the appropriate sections I wish the Resource Team to view.

Ray Morris told me, some time before I purchased the fax machine that Telecom local technicians would be out to test my line current. He mentioned he would set up my fax machine when visiting Cape Bridgewater in order to coincide with testing from Melbourne, (refer K02916).

The Resource Team will also note that for a PR exercise a Telecom technician swapped over my phone to a T200. I must say I am at a loss to understand why a new card was changed to the RCM to eliminate any possible problems, if my service was A1. I would submit that the Resource Team would be aware that after reading Cape Bridgewater Parts One and Two that there are a number of varying reasons given for card changes at the RCM over many months.

I would further refer you to point 11 in respect to the Geelong Advertiser complaint, this was a typographical error on the part of the classified operator. Any major issues that arose with Telecom were followed up by a letter and therefore I consider it rather strange that a senior Telecom technician after discussions with his group should find it more appropriate to drive all the way to Geelong from Mount Waverley, when Mr Ross could have established that this was a

typographical error on the part of the Geelong Advertiser by phones available to him at his place of work.

I would also like to address some issues that Mr Morris outlines in points 13, 14 and 15 of his statement. I would categorically say that there was never a complaint to Telecom by myself that I could not hear incoming calls on my cordless phone. The problem was that I could not always answer a call at will. I had to make many a hasty retreat to my office location.

The Resource Team will view the proximity of the Convention Centre and the Camp and they will see the distances involved as mentioned "when Mr Smith roves around his property".

I will now make the most valid point regarding this cordless phone. I have asked Telecom for CCAS and CCS7 data. If they provide this documentation I will be able to show the Resource Team a telephone number called on my 267230 line. This was the Manufacturer, Telecom Industries, and I spoke to them after receiving the second cordless phone regarding the fact that it would not switch off at will. I would make mention that this cordless telephone had an on/off switch. In respect to Telecom Industries, I can say that they seemed at a loss as to what to do in regard to this original fault that I complained of. I cannot be sure of the exact day in question and I checked with the shop that I purchased the two cordless phones from, but the swap over day was not recorded. If you wish to make the inquiries, the shop does remember me swapping over the phones. I have previously stated that this shop was Retravisision in Portland.

With regard to Telecom's Defence documents which refer to Ray Morris' statement about the old and new cordless phones, let me assure you Mr Arbitrator that it was in fact Ray Morris who suggested I return the first cordless phone to the point of purchase. I recall that Mr Morris even stated that if I had any problems with the shop in question regarding the replacement I should give him a call. This proved to be unnecessary since Retravisision swapped over the phones without any fuss.

I would also make a point in relation to the new and old cordless phone that Telecom Defence documents Appendix 1 at 42 top paragraph and I would say in relation to this that I am no longer bewildered as to how a senior Telecom technician can fabricate his own records, but I do ask how

in the world could Ray Morris test both the old and new cordless phones when only one was available at the time of his visit. I believe this to be another example of the misleading and deceptive conduct of Telecom via Mr Morris and a further example Dr Hughes is that I to Paul Rumble in a letter dated July 31, 1994 asked how the author of a particular document could fabricate such a lie, saying that he contacted the Camping Association to confirm that clients I could have, had in fact rang the Association explaining their difficulty in contacting our Convention Centre and Camp. I would indicate to you that the author of that document was Ray Morris. In this document Mr Morris goes on to say that several customers did experience difficulty in getting through to this business and he states that the Camping Association had told him that they all told the Camping Association that they were continually getting an engaged signal. Mr Morris then further states that this would be correct as I was always on the phone.

Dr Hughes is this similar to the two cordless phones? When there was only one, Mr Ray Morris then adds a little bit more. Perhaps on this occasion he is also adding just that little bit more. As stated quite clearly in my letter to Mr Rumble dated the 31 July 1994, cc to yourself on the 31 July 1994, I contacted the Association Executive, Don McDowell, (Victorian Camping Association), and was informed that he did not issue any advice as to what type of phone faults these could have been customers experience. He only noted that they had complained.

Dr Hughes I would make mention this man, (Morris), was in charge of my phone service and these two examples show how the truth has been twisted to suit the cover up of his own lack of understanding.

This evidence leads me to believe that perhaps things are not what Telecom would like us to believe and that there are pockets in various locations that have experienced difficult phone network faults.

You will also be aware that Mr Rumble did not reply to the letter of the 31 July 1994 which like so many letters over the years uncovered many similar fabricated stories.

Statement 9 - Hew Kenneth MacIntosh

I would ask that you have Mr MacIntosh supply all notes he made of conversations with myself as indicated at point 10. Also you would wish to obtain the information and evidence upon which Mr MacIntosh bases his statements at point 11.

Statement 10 - Mark Adrian Ross

Mr Ross must have a considerable file in respect to my complaints. **It is interesting to note that Mr Ross states no problems could be found. Why then did Mr Ross issue a document on the 2 July 1992 (reference CBW Part Two page 45) acknowledging Portland technicians believe I was correct in regard to RVA faults and that the problem was increasing due to more and more customers being connected to AXE.**

I would also refer you to F.O.I. document K02483. You will see that Mr Ross notified Telecom Management that "Mr Smith's problems are symptomatic of many of the problems being experienced by customers on our network at present."

Sir, you would have to find that the statements by Telecom technical staff and National Network Investigations cannot be given credence in respect to the RVA being only applicable for the period 14 to 19 March 1992. I seek you to call on Mr Ross for any information he may have of all the other network customers experiencing the problems.

I would refer you to the Senate Estimates document (reference Cape Bridgewater Part Two page 46 and F.O.I. R11591) where Mr Davey acknowledges the same and states the matter is within the ambit of the inquiry. The survey at point 12 in March of 1991 by Maurie O'Flaherty is I would suggest indicative of Telecom's response. This survey really is in my submission nonsense. It is in fact a fabrication and Mr Ross knows it well. He states at point 12 that it was impromptu survey, in other words without preparation. If you look at the top of the survey (reference Telecom Defence Appendix 5 at 24) you will note that the survey was in respect to NRR Cape Bridgewater. I would suggest this to be a specific and prepared procedure.

Serious questions to the accuracy of Mr O'Flaherty's recording procedures must be asked. In fact one would have to question if Mr O'Flaherty did ring all of the numbers as on the survey. Please observe that 267230 was not connected at the time. It would not have rung. Therefore you would not have DNA (did not answer) on the survey form. It is also hard to comprehend how Mr O'Flaherty would know 267214 was a holiday home when he is in Hamilton and this number did not answer as per his survey.

I would consider that the Research Unit should obtain from Hamilton all surveys for the period both in respect to Cape Bridgewater and also any completed by Mr O'Flaherty to consider the authenticity of the same. Perhaps staff should also be interviewed to establish the correctness of Mr Ross's statement re impromptu. I would suggest these surveys are simply created in order to achieve a better result for Telecom.

Mr Arbitrator by created I mean that some of the answers would appear to be created. It is interesting to look at the document and note that at 267203 and 267204 it has been written "no problems" and then it would appear that in a different pen the words "that they know of" have been written. Mr Arbitrator once again I would reiterate that if you eliminate all of the did not answers you have only four occasions where there weren't problems. My original submission in relation to this survey stands. 267201 the problems ringing local numbers. He knows that 238 were not getting called. He knows that 210 was also the same and what's more she reports that no fault reports were made. The next one on the list 206 has had complaints from callers. The next person to answer 267223 states that a call on Monday at 12.30pm could be of this nature because a comment was made by the caller. The next person that answered did have problems when persons rang they complained she was out when she wasn't. The next one 232 has had problems with noise.

Mr Arbitrator you would have to find that my interpretation of this survey is far more accurate than the strange nature in which Mr Ross and persons in Telecom treat the statement. Mr Ross considers that this response obtained was consistent with expectations in a rural area. Well if this is the case then those expectations certainly prove my claim beyond any doubt.

One would have to consider that nine persons rung, five make complaints in relation to seven services, therefore seven persons out of eleven in the Cape Bridgewater area in 1991 were experiencing problems very similar to those that I have complained of. No matter how much testing Telecom have done, they have always put my complaints down to customer premises equipment, the misuse of equipment, incompetence in relation to equipment or the incompetence of persons calling myself.

You would really have to believe that for Telecom to know of the problems in 1991 and then not attend to such problems and ensure that they were not continually happening then you would find that my claim is proven. You would in particular find that my claim is proven between the years 1988 to 1991. You would draw the simple inference that if the complaints I have made are genuine between 1988 and 1991 then similar complaints along with the evidence that I have from independent sources for the period after 1991 would indicate that my claims are genuine. Telecom have shown nothing but deceptive and misleading conduct, they have been unconscionable in their behaviour and all of this leads to the caused link in my claim that Telecom have been negligent and in breach of their duty by not addressing the real issues.

Telecom place a lot of emphasis on their fault testing, however as you have seen in my reports and the issues that I address in this defence reply, Telecom's fault testing is at best unreliable. Mr Arbitrator I would submit that there is no better evidence than the corroborated testimony of independent persons. You have before you my claim documents in my original letter of claim reference numbers 2000 to 2158. You would find that there would be no better evidence than this to prove my claim between 1991 and 1994.

You also have before you in Telecom's own defence documents this survey which Telecom would want you to accept and if you accept it on the grounds of my explanation you have also evidence of independent persons, seven out of eleven in the Cape Bridgewater area complaining of faults. Once again I impress upon you to look at the types of faults that these people are complaining of. They are exactly the same faults that I have been complaining of throughout the entire history of this claim.

I would suggest you would consider the statement of Mr Ross as totally inadequate and self serving in the extreme.

Statement 12 - Donald Albert Lucas

Mr Arbitrator, I would like to bring to your attention what would appear to be another prior conflicting statement by a Telecom employee.

At points 5 and 6 of Mr Lucas's statement he states that he attended to my problems with a tone ringer, that it was inaccessible, turned off and that with the aid of a ladder he turned it back on. This is a complete misrepresentation of the truth. The tone ringer was on and Mr Lucas did not check on that date. I would also like to state that Mr Lucas has never checked such a device.

I refer you to F.O.I. document K02131 (attached). A Bruce Pendelbury states that on the 8 November 1992 Mr Lucas attended and retrieved ELMI tapes which he handed to Pendelbury on the 9 November 1992. Pendelbury states Lucas was unable to ascertain the type of bell ringer and therefore Lucas called Cape Bridgewater on the 9 November 1992 to determine the type of bell ringer. Such statement of Mr Pendelbury states that I had to use a ladder because it was inaccessible. This clearly demonstrates Mr Lucas is lying. I do not have a ladder, Mr Lucas did not use one on the 8 November 1992 and had to call me on the 9 November 1994 to verify the system. My next door neighbour, Mr Woods, can vouch for the fact that my ladder was stolen at the lakes prior to this incident and that he used to lend me a ladder when I needed one.

Mr Arbitrator I would bring your attention to point 9 and state that Mr Lucas is the third senior technical person who has been associated with my continued phone problems. I find the conflicting statements of Mr Lucas quite sad, in fact I would state that Telecom did not provide me with a cordless phone, I purchased the model 200 at Retravisation in Portland. This is well documented throughout this entire claim and defence documents and therefore this fact alone would put anything that Mr Lucas has to say in a Statutory Declaration under extreme question.

In regard to point 10, I would state that Mr Lucas wrote to me on the 23 November 1992.

You would note that Telecom Defence document Appendix 5 at 19 paragraph 3 states that an RVA was found to be only for a three week period. This has since been proven to be incorrect. This fault in the MELU, was stated by Stockdale in his notes (reference page 15 Cape Bridgewater Submission Two paragraph 3 third line.) Mr Arbitrator it is obvious that the problems apparently continued although the complaints of RVA were only apparent from March 1992. You will note that in this document reference line seven goes on to say that this data error would have resulted in RVA. It is not known at this stage how long the data error was in the system.

Mr Arbitrator you will be well aware of the fact that I have established in an abundance of documentation both throughout the claim documentation and in letters that I have written that RVA was experienced with persons trying to contact my business including the Haddon Community House and the Heywood Primary School who had complained to 1100 in 1991 of their own experience problems of the RVA and my service. (Please refer Cape Bridgewater submission 7 June 1994 reference 2016-2018). Further Mr Arbitrator you would note that Coopers & Lybrand wrote in their report that 1100 had not always correctly followed up on continued customer complaints. You will also note that in the survey contained in Telecom's own defence documents Appendix 5 at 24 Telecom themselves received information that people when experiencing faults in the Cape Bridgewater area had not reported the faults.

Mr Arbitrator I would submit that Telecom was negligent when with the 1100 fault service and the other information they had to hand that they failed to act on these continued RVA complaints. You will note in paragraph four of Mr Lucas's letter which I have previously referred to contained in Appendix 5 at 18, paragraph 4, that Mr Lucas refers to fault and would like to bring across that the fault is only between the period of the 2 October and 7 October. You will also note in Telecom Service History documents defence documents at page 25 that in a table on that page Telecom state on the dates of October 1992 that a condition register 34 affected the Cape Bridgewater Holiday Camp service for a period of less than six days.

Mr Arbitrator I would like you to go back immediately one page in Appendix 5, that is to the last page of Cape Bridgewater Appendix 5 at 17, and look halfway down the page where it states "Analysis of 055 267267 problems" there is the date the 9 September 1992.

You will note that Telecom have considered that this fault was found by Portland staff as being an intermittent fault in the digit storage section of Portland ARF. This resulted in customers occasionally getting RVA or wrong numbers. This would have affected all PORC customers, as well as any customer in ARK served by PORC. The fault was rectified on the 7 October 1992. You would wonder then Mr Arbitrator how Telecom can put in a table its defence to you at page 25 of the Service History an indication that that fault lasted less than six days. You will note that that fault in fact lasted some thirty five days.

Mr Arbitrator if you marry these two particular documents together themselves from Telecom's own defence documents you will have serious questions over the amount of attention that a Mr Steven Foster Black paid to when he took upon himself to make a solemn declaration in respect to this proceeding. You will note that Mr Black at point 6 of his Statutory Declaration at the beginning of the Cape Bridgewater Holiday Camp's Service History uses at point 6 an exculpatory provision stating that he does not have personal knowledge of the facts set out in the report or the facts upon which any statement contained in the report is based. You will note that he states that he has reviewed the report and is informed by each of the authors of the report accurately states the facts stated in the report.

Mr Arbitrator you would have serious doubts about the truthfulness of Mr Steven Black. I would submit that Mr Black states that he has read the attached report which is dated the 12 December 1994. Mr Arbitrator I am well aware that this report was submitted to yourself on the 12 December 1994 and I would suggest that if Mr Black has reviewed the report on the 12 December 1994 and then signed the Statutory Declaration on the same date and the report delivered to yourself he must have made a very cursory inspection indeed of the contents of the report.

Mr Arbitrator I ask you to address in your report on this matter for the future of any proceedings in arbitration involving Telecom the standard of preparation that Telecom has put into this matter. I believe that you would find that Mr Black's Statutory Declaration is in fact unconscionable and is in fact a ridiculous document drafted by Solicitors on his behalf in order to prove exculpatory if any Court proceedings were ever to arise out the signing of the same.

Mr Arbitrator you will also find that Mr Lucas' statement or Statutory Declaration would appear to be somewhat dissimilar to his letter contained in the above reference of the 23 November 1993. You would note in paragraph 10 his letter states "I confirm that Mr Smith agreed that he was experiencing no further problems for two or three months."

You would note from previous of Mr Lucas's letter that he acknowledges the fault of register 34 and that in the Telecom Defence files Appendix 5 at 17 there is shown many faults registered by me or the Telecom network. This is during the three months leading up to the letter from Mr Lucas on the 23 November 1993.

Mr Arbitrator I would like to take this matter even further in respect to the behaviour of some senior Telecom personnel. I have submitted as part of my Cape Bridgewater Defence reply appendix some letters that have been newly released in F.O.I., these are K02074 and K02097. I would further direct you to K02771, a letter from the Corporate Secretary of Telecom, Mr Jim Holmes, to Mrs Carter the Senior Assistant Commonwealth Ombudsman. You will note in this letter to the Commonwealth Ombudsman that Mr Holmes is prepared to fabricate evidence and make untrue representations to the Commonwealth Ombudsman. You will note that on page 2 under the heading 28 July 1992 Mr Holmes states that between 28 July and 7 October 1992 34,686 test calls were made to the PTARS base resulting in 106 failures.

Mr Arbitrator I would now take you to Telecom Defence Document Appendix 5 at 31 and document numbered K04410 which is a table demonstrating for the period 28 July to the 7 October 1992 that 34,686 test calls were made as is similar to Mr Jim Holmes's letter to the Commonwealth Ombudsman office. However you will note that there were 1,569 failures whereas Mr Holmes is happy to say that there is only 106 network failures. Mr Holmes says that this failure rate of .3% is will within the accepted limit of 2%. You will be aware Mr Arbitrator that 1,569 is actually 4.52% of 34,686. Mr Arbitrator you would find that it is in fact disgraceful, negligent, misleading and deceptive, a breach of duty, a breach of the duty of care and close to a criminal act for Telecom to deliberately mislead the Commonwealth Ombudsman's office. We leave this in the hands of your report to address this aspect of my claim.

To assist you further in this regard Mr Arbitrator I have also included some letter which you may find very interesting in respect to the Corporate Secretary of Telecom. You will note that Telecom is of the practice of drafting letters on behalf of the Minister of Transport & Communications, these letters are then cleared by the Corporate Secretary of Telecom prior to either the Minister or his Senior Adviser just signing the letter. You may wish to comment in your final report as to the wisdom of any Government having the agency that a complaint is being made against drafting a letter for its own reply. Mr Arbitrator you have to go no further than the recommendations of The Fitzgerald Report in Queensland in respect to Police investigating Police and subsequently Police writing to the complainant about the investigations they had conducted upon their own.

Mr Arbitrator it appears that Telecom are prepared to lie in Statutory Declarations to prove a point. Further at point 14 Mr Lucas states his brother lives in Cape Bridgewater and has not experienced any telephone problems. This is totally untrue. I would refer you to documents Telecom defence Appendix 5 Section 9 and Appendix 4 Section 30 which clearly show two faults reported by Mr Lucas on number 267241.

Statement 13 - Christopher James Doody

Mr Arbitrator at point 7 of his statement Mr Doody indicates there were no problems identified by CCS7 call data standard test method.

I would refer you to the document references numbers

Firstly contained in Telecom Defence documents Appendix 4 at Section 8, document dated 20 April 1994 S6696590.

Document 11, documents S6716844, S6717131, S71833 dated 24, 25 and 26 May 1994

Document 14 dated 23 May 1994 document S6715893 and 27 May 1994 document S6717131

At 23 document 10 June 1994

12 June 1994 S6727410 not 29 document K27946 25 May 1994

At 33 document K27951 11 July 1994

At document 33 again 22 July 1994 document S6753025 Cape Bridgewater Assessment Claim Letter of Claim reference 20471250 12492063 in Cape Bridgewater Assessment Part Two

Document 15 April 1994

Document 27 May 1994

Document 25 May 1994

Document 26 May 1994

Document 30 April 1994.

The following documents attached:-

F.O.I. documents R37908

Documents R37913

Documents C10058

Documents C10028

Mr Arbitrator you will find that all of the above documents indicate problems with the CCS7 data.

They include unanswered calls not captured CCAS data not available for that date, no records on the CCS7, unsuccessful calls noted, lock-ups noted, lost calls noted, CCAS data failed to show RVA, the CCAS is not available to register a known fault.

Mr Doody would like to consider that he has some abilities in his field, however I would suggest he is not abreast of the problem with testing.

Witness Statement - Charles Anderson Hughes Black

I would refer you in particular to Mr Black's statement point 3. This would appear to be absurd behaviour from a supposed professional. Mr Black is far removed from the continued problems that my business has experienced over many years. The proof I have, of a two ring and one ring situation, where it rings at the customer's end, that is Mr Black's end, and registered my end on the ELMI Smart Ten is that I did not have the opportunity to pick up the phone in that two ring situation. ie the phone had stopped on that burst of activity two rings. At the time of Mr Black's games I have had 1100 experience faults on my line, RVA, and a short ring situation on more than just the odd couple of occasions. Telecom technicians themselves have written that they had heard short ring situations at this business. In the Austel Report of Cape Bridgewater Faults Mark Ross interviewed a staff member, Mrs Margaret Reefam, who reported short ring situations on the very day of the interview.

On the day in question, 23 June 1994, an incoming two ring call did in fact register on the ELMI Smart Ten analysis record. On this particular day I registered two complaints to Telecom 132999 number S6734595 and S6734712. I can recall that I was questioning short duration calls on my 008 number on the complaint order the same type of complaint to that of Mr Black's game. You will note interestingly that these calls into my business I had been charged for two rings situation. The other complaint that I made on that particular date was a one ring situation after a call from the Federal Police in Canberra. This was not at the time of Mr Black's call. Therefore I did not register a complaint of a two ring situation on this day in question, yet a call was registered on the ELMI Smart Ten. The question now asked is that I had proven and shown in my documents where calls had been lost and incorrectly charged on the Smart Ten analysis report was Mr Black's calls one of those lost calls and obviously if Mr Black had had the courtesy of at least allowing the call to show a true picture, that is I picking it up and answering Mr Black's call, he could have at least said sorry that he had called a wrong number.

I trust his behaviour was not motivated by a perceived biased allegiance to Telecom in order to profit from this process. You will find that it is indeed an incredible situation.

Witness Statement 18 - Ian Armstrong Joblin

I would like to make the following comments in relation to Mr Joblin's interview. Mr Joblin in point 6 states that the interview took place in a private part of the Hotel and no one other than Mr Smith and I was present during the course of the interview. This is inaccurate in that Mr Joblin interviewed me in the Saloon Bar of the Hotel and people were walking back and forth. As this matter is somewhat surrounded by controversy over privacy issues, I felt particularly vulnerable in the town of Portland where those privacy issues have been expressed. I would note at paragraph 7 that Mr Joblin has stated that I am 40 years of age. I am in fact 50 years of age.

Mr Joblin also at point 7 states that I purchased a truck and began working as a Courier, however that that venture appears not to have been successful and that I then went back to sea to work on Tugs at the Port of Melbourne.

Mr Joblin has made an unqualified and unbased statement in this regard. At no time did I tell him that the truck venture was unsuccessful and in fact this venture was extremely successful, however I was offered far better employment and financial conditions to return to working on the Tugs. Mr Joblin has made a statement which would on the surface appear to be designed to state that I am not successful in business ventures.

I would state at point 17 that Mr Joblin indicates that any symbol representing Telecom may generalise to cause me distress. That is in fact untrue and I am not affected in that manner. I must say that I have some difficulty with Mr Joblin's ability to be able to assess the causes of the deterioration of business. I note in his qualifications that he is not a qualified Accountant nor qualified in any type of business studies whatsoever. I would also refer to point 19 where Mr Joblin uses the concept of the ordinary man. Mr Arbitrator although you must consider the opinion of a professional, I would suggest that you may wish to have other psychological professionals determine the effects that my problems would create for an ordinary man.

I would also like to address a point in the conclusion of Mr Joblin's statement that at point 23 he develops an opinion that because of a personality test he conducted failure in social and vocational pursuits was inevitable.

You may wish to question on what academic basis Mr Joblin forms his opinion. You may wonder then why Mr Joblin doesn't attend at every School in Australia and do such a test and indicate to a student whether they are going to be failure in social and vocational pursuits. I would consider that if a personality testing can show that one is destined to be a failure in social and vocational pursuits, then perhaps we are performing the wrong tests at Schools. I really do think that Mr Joblin's opinion in this case would be subject to strong academic debate. I think that point 23 sums up Mr Joblin's opinion really that it is quite inappropriate for him to draw any cause and reflect relationship between my psychological status and any acts or omissions on the part of Telecom. If he considers it inappropriate then he cannot draw a conclusion one way or the other as to whether it has affected my business relationship or whether it has not.

I would also note that Mr Joblin's statements are not supported by any supporting evidence or documentation and his treatment of Mr Mackie's report without drawing on any academic precedent would appear to be unusual. You would also not be convinced that the material supplied to Mr Joblin in his index in a summary form by Telecom would be a true reflection of my case.

SECTION TWO

Cape Bridgewater Holiday Camp Service History

I would like to bring to your attention the following issues from the Telecom Defence documents Cape Bridgewater Holiday Camp Service History.

1. Page 39, 30 April 1993 (reference 2032 Letter of Claim). Letter from Brenton Smith, states RVA and an engaged signal for three hours on both numbers 267267 and 008 816522. Mr Pendelbury would seem to want to make an issue that I could not give accurate information regarding my problems. Therefore Telecom have a conclusion that no problems located or subsequent action being required. I can assure you that I recorded the RVA in respect to a particular matter.

After Pendelbury rang me with the results I also told him that my son and a caller from Brisbane had received a dead line in the previous week. On both of those occasions during the week when those persons rang me they received RVA and a dead line. Of course they did not receive the RVA and the dead line at the same time. You will note Mr Arbitrator Telecom's conclusion and I would ask that you have Telecom provide the documentation in respect to such investigation.

I would refer you to Appendix 4 of Telecom's Defence documents at Section 27 where a letter is attached from Sister Denollon dated the 13 April 1993 that shows that she attempted to contact the Cape Bridgewater Holiday Camp and that each time she dialled during a week she received no dial tone, the line was in her words "blank". I also refer you to the document prior number 26 in the Appendix 4 and note that Robert Walker on the 12 April 1993 indicates the problems that he had in trying to reach the Camp receiving a busy signal. I would ask that you have Mr Pendelbury produce all documents in relation to the investigation which gave him the ability to be able to say that no problem was located or subsequent action required. Telecom have been negligent in the manner in which they have carried out such investigations due to the fact of the corroboration placed in their Defence documents.

2. Page 39, 2 June 1993. Once again Telecom has stated a fault was found in the customer's facsimile machine, this time a Mrs Billings from Burwood, there is no way of knowing what was wrong with Mrs Billings' facsimile. You will note the Austel documents stating that Telecom have a habit of blaming the customer's equipment.
3. Page 39, 24 June 1993. Mr Arbitrator with no test results provided by Telecom I would consider that they have been negligent and unreasonable and I call upon you to have them provide the test results in relation to this matter. I have been left in a position where I do not have the ability to verify their conclusion.
4. Page 40, 12 July 1993. Mr Stockdale states that the Warrnambool Standard Reporter could have misdialled and therefore got a recorded message.

I consider that Telecom have been negligent and breached their duty in respect to this investigation in that they had considerable supportive evidence of RVA's as outlined in my claim documents and that the evidence is more corroborative of myself than of Telecom.

5. Page 40, 16 July 1993. National Network Investigations have not addressed the lost calls or the CCAS and CCS7 and been negligent in not doing so in my submission. These calls were charged for and did not register on the CCAS or CCS7. However other calls did take place. I believe that this negates Mr Stockdale's point of view that no short ring did take place.
6. Page 40, 19 July 1993. The first question I will answer, is I have rang my 008 816522 number and the line has been dead. This was done from my 267230 line. Telecom appear to be making an issue of the fact that there is no reasons for my conduct. Of course there are reasons for my conduct, that is I was investigating the problems that I had been having over this period of claim as outlined in my Letter of Claim and other claim documentation. I am sure that you will consider that these are the actions of a reasonable person.

I considered that Telecom had been in breach of their duty and had been acting negligent in regard to my phone service and therefore with the corroboration of some sixty eight letters in respect to faults I had of course had to carry out my own testing due to my belief that Telecom was being negligent in relation to their investigations.

7. Page 40, 9 August 1993. You will note that Mr Stockdale makes mention of the Telecom defence reference document Appendix 2 number 54. It is interesting to note that Mr Stockdale now has an opinion that I did not replace my handset and therefore the phone was off hook. You will note in the attached document referred to by Mr Stockdale that the F.O.I. number K00804 is a special case investigations and it is a letter from David Stockdale. It is of vital importance I would submit that you pay particular attention to this document of Mr Stockdale where he conducts a full investigation into what is called a reported locked-up call. He does not at any time address the possibility of my leaving the phone off the hook and in fact mentions on the second page that a supervision process is a genuine side effect of MCT on calls from A party numbers with insufficient CLI.

He states it is a design limitation of older technology exchanges that cannot be overcome at this time. He also states since it was determined that MCT on my telephone number 267267 was causing some problem for me, it was removed immediately. I note that Mr Stockdale states that this does not adequately answer the possible causes for a call being held for two hours, however I would suggest that when they state the design limitation that cannot be overcome at this time is a concern well then I doubt that Mr Stockdale's opinion and conclusion in relation to this matter can be held at all.

I also mention that in Mr Stockdale's explanation in the Cape Bridgewater Telecom Defence document service history conveniently that Mr Peter Penny of the Horsham Exchange noted that he made a successful call and then two busy calls. You will note that he states that additional test calls were conducted to a number of Portland exchange to avoid inconveniencing. One would have to consider that Telecom have been negligent in this testing as it would be hard to conceive what perceived result could be obtained from ringing Portland. If Mr Penny had continued to ring Cape Bridgewater perhaps he would have found the problem was at my end.

8. Page 42, 17 August 1993. Mr Arbitrator I would state that this type of comment in the conclusion is why C.O.T. was formed. Mr Stockdale and Telecom negligence cannot bring themselves to accept that the CCS7 had in fact registered a call likewise the CCAS and yet I was charged for five calls being connected. It appears remarkable that Mr Stockdale did not bother to ring this person when on the 12 July 1993 he has rang the Reporter at the Warrnambool Standard Newspaper to confirm the details given by myself.

You would think that Mr Stockdale would commit himself to this type of investigation except I would say clearly he knew that his 1100 staff were correct, that a fault had been reported and that he was simply prepared to accept that someone would be stupid enough to make five calls of less than twenty seconds and then ring 1100 in order to get put through. This is a clear incidence of a breach of duty and negligence on behalf of Telecom in providing me with my telephone service and attending to my difficulties, faults and service problems.

Mr Arbitrator in particular I would like to have you source my Cape Bridgewater submission Letter of Claim documents number 0725 and you will note that suspiciously Telecom have in their own file note stated Tina from Bendigo (Telecom) - could not contact him either and underneath that they have written put her through. You will note that in relation to this issue and you will note that someone in Telecom has crossed out could not contact him either, clearly demonstrating an act of denial by Telecom. If Telecom are prepared to deal with official documents in this manner you would be doubtful as to their integrity in dealing with any issue in this matter.

9. Page 42, 30 August 1993. I can say that Mr Pendelbury would like to contend that I was using a cordless phone, however my cordless phone was returned in April of 1993. It is a pity that although there is an obvious problem Telecom have decided to state that an investigation showed no problem being located or subsequent action required. This once again demonstrates Telecom's inability to be able to locate problems and if they can't locate problems they simply do not conduct any subsequent action which in my opinion is negligence and in breach of their duty. Telecom Defence document Appendix 3 at 19 numbers K03754 and K03757 show problems in the time a fax is received. Also blank paper was generated from another Telecom testing area and Peter Gamble would have us believe that Telecom technicians by mistake sent blank paper. I am not sure how Telecom can make their conclusions that no problem was located and subsequent action required.
10. Page 43, 20 November 1993. I am concerned that Telecom are implying that the one failure by Mr Humberto Lopes happened when Mr Lopes temporarily left Mr Schorer's premises. It seems a shame that Telecom wished to imply that Mr Schorer and I have conspired to cause a mistake.
11. Page 43, 13 January 1994. Mr Arbitrator I would draw your attention to the fact that Telecom are attempting to say that I am deliberately lying. In one instance reporting to Telecom's service fault records by Mrs Vel Thuyzen who received a busy tone four times and stating that I later told Austel that she'd received a busy tone seven times. I would refer you to the Statutory Declaration in my Letter of Claim documents number 2063.

You will see clearly here that Ms Vel Thuyzen has made a Statutory Declaration and states seven times. I would suggest this is a deliberate lie by Telecom. I would consider that you would place far more weight on a conscientious statement under oath by an independent person than what you would by Telecom attempting to avoid the negligent behaviour. I accept that I could have very well been on the telephone when Ms Vel Thuyzen rang seven times receiving an engaged tone, however this does not explain the existence of an RVA. If every time I am on the phone and someone rings up they receive an RVA it is certainly not in my submission the duty of the service that Telecom are to provide.

You will note also that at the reference documents of Telecom 3.32 number K01032 that Telecom speak about the test calls. They state that three test calls were made from the Mordialloc Exchange, one at 1.49 and two at 1.50pm. You will note that Telecom state that three calls from Mordialloc Exchange appeared to be answered but no conversation took place.

This would appear to be unexplainable by Telecom, however at the end of this problem they have stated it has been investigated by Telecom with no problem being located or subsequent action required.

I would suggest that there is a serious problem with their testing when they indicate that no conversation took place. You would consider that if they were conducting testing I would certainly answer the phone and speak for some considerable time as I did on the two test calls from the Waverley Exchange. I certainly recall speaking to the gentleman from the Waverley Business Service Centre which was Bruce Pendelbury, however I did not speak to anyone making test calls from the Mordialloc Exchange and Mr Pendelbury did not mention that test calls were to be made from the Mordialloc Exchange.

12. Page 44, 31 January 1994. Mr Arbitrator you would certainly question the fact that every time there is a problem with the facsimile line that Telecom indicated must be a fax unit. On this occasion Telecom are unable to blame my facsimile so therefore Steve Black, who is the person prepared to put his signature to this entire report, is prepared to acknowledge that on this occasion the fault lies with Telecom's facsimile machine.

However you will note that this investigation does not take the matter any further. I would refer you to my Letter of Claim document reference numbers 2067 and 2064 which show that the very next day on the 1 February 1994 Steadman Cameron Solicitors could only manage to send me half the quantity of the fax with the two middle sheets coming out blank. I would also point you in the direction of reference number 2064, 21 January 1994, Selwyn Cohen, Chartered Accountants, received only two pages of a seven page fax. You will note that they received two and that their facsimile registered seven. These facts would appear to bring into question Mr Black's explanation of this incident.

13. Page 44, 14 February 1994. With reference to the four hour and seven minute call, I did not speak for that period of time. The CCS7 and CCAS monitoring data does however have a tendency to give incorrect readings and this has not been challenged by Telecom in their defence. I have given many instances in my submission where this has taken place, yet Telecom has not refuted my notes. You would on those grounds have to accept that Telecom's testing procedures should be treated as unable to provide evidence that no faults existed with my service.
14. Page 46, 26 May, 30 May and 23 June 1994. On the 27 May 1994 Peter Gamble, a Telecom engineer, heard five short rings on my fax line whilst speaking to me on my 267267 line. After the fifth time he suggested to pick up the phone and after the sixth occasion he told me to place the handset across the ear piece of the incoming 267267 line. Mr Gamble stated that he heard nothing, however having a house guest present, I had the house guest tell Mr Gamble what he had heard on the telephone.

I am also concerned that Telecom did not do test calls to my new facsimile machine and only to my 267 line when they were investigating this matter. It is also interesting to note that there is no mention in the service history report of Mr Gamble having experienced this fault and Mr Gamble has indicated on two separate occasions that he would provide written documentation as to what he had experienced. Mr Gamble however cannot be trusted to accede to his word.

Mr Arbitrator I am also concerned that Telecom have picked up and attempted to indicate that two ring bursts only occurred on the 10 June and have tried to appoint some sort of conspiracy motive towards myself and my research assistance, Plummer and Pullinger in Queensland.

I have no difficulty with any of the matters that Telecom addresses in relation to the 10 June in that Plummer and Pullinger were calling me on a large number of occasions and that whilst I was on the phone to Mr Schorer, Plummer and Pullinger did attempt to call me on my 267267 line seven times and received a legitimate busy tone. Due to their concerns with my lines, Plummer and Pullinger then tested as to whether my 230 and 260 lines were working. I note that this testing by Plummer and Pullinger ceased at 8.34.33 and 8.34.03 on my 267267 line. Not being able to contact me on this occasion Plummer and Pullinger obviously had other matters to attend to and did not attempt to call me again until 2.14pm.

Telecom's inadequate reference to two ring situations and only analysing one date, 10 June 1994, when they know that they can prove no fault is ridiculous when you take into account that Mrs Izzard of Ballarat, Peter Gamble and Ross Anderson of Telecom, Margaret Reefman a past employee and Mrs Trigg of the Portland Coach Company is included in the Telecom defence documents, all experienced two ring situations.

15. Page 48, 12 June 1994. I note that Telecom have mentioned 1,000 test calls from Queensland to Cape Bridgewater with call values. Telecom have not provided copies of the data in relation to the 1,000 test calls so that we can comment on the same.
16. Page 49, 23 June 1994. Again I question how can Telecom rely on the CCAS and CCS7 monitoring equipment when assessing this claim. Please refer to Telecom defence document Appendix 1, number 9 where it states "Mr Smith received one burst of ring at 1.15 and 5.05 on the 14 February 1993. This problem occurs intermittently throughout the network and although it is recognised as a problem, there appears to be no one person or group involved in resolving it."

17. Page 49, 9 July 1994. Mr Arbitrator I am unsure here what Telecom are attempting to imply and I would state that no fault was reported. At 5.26pm I did ring Portland on 217777 to ask a question about the time of a particular tour. After writing further documentation to my claim I decided to photocopy a document. As my facsimile machine is a combination which has a copy process I proceeded to copy a document. However the paper would not go through the copier and after I tried a couple of times I found it was to no avail. I checked the power and then remembered the previous phone call.

I then took the phone from the cradle attached to the facsimile and picked up the phone replacing it back in the cradle, I then placed the document in the copier and it copied.

I then rang at 5.37pm the Sunshine Coast number of my Communication Adviser, Mr George Close & Associates. I rang Mr Close to tell him about the problems that I experienced in the line locking up. I would state that up until late July early August I have noted when dialling there has often been a dead sound when dialling.

This has happened on odd occasions of late, however back then I may have dialled the 23 number for Portland. If I did I would have then stopped, pressed the disconnection cradle button to redial. Whatever I did I did not believe this was a fault. I can say that when I contacted Telecom 132999 I only mentioned to the Operator about the episode regarding my fax and to get Tony Watson to ring me on Monday morning.

18. Page 52, 2 February 1993. Once again I would bring to your attention the fact that Telecom investigations regularly find that the problem is with customer equipment and of course I would refer you to the C.O.T. Report of Austel, the reports in my Letter of Claim of surveys where Mrs Naisbitt states that Telecom told her it was with her PABX and other instances where Telecom indicate that the problem is with the customer's private equipment. I only am too pleased to acknowledge that on particular occasions customer equipment would be at fault, however I find it difficult to agree that in nearly every case in my investigation the problem has been with my equipment or usage of the same or alternatively the persons who are trying to contact me with their equipment or usage of the same.

I would ask that you have these documents supplied so that your Resource Team can make assessments in relation to these particular statements.

22. Page 55, Cape Bridgewater RCM System continues. You will note that Len Bank's witness statement confirms errors could have caused voice cut offs. I would ask that you have the Resource Team view the Austel Report page 165 Section 7.35 re ECM Multi Plex Report.

You will note that the statement in the report that the impact of the seiman's A735 core cut off fault on incoming calls was not significant, however must be read in light of contemporaneous reports.

"The problem when solved, will generally clear the cut off problem which we perceive as the major disability confronting our customers."

23. Page 65, 28 May 1993. You will note that this particular episode states that I called the Telecom Fault Management and Diagnostic Centre at Glen Waverley and yelled at a Mr Les Churcher that my 267267 line was off for the past five minutes. I agree that I could very well have yelled at Les Churcher complaining to him that my 267 267 phone was ringing: ring, ring, ring. That type of fault has been very common on this service up until late July/early August, 1994. You will note however, that I very rarely used my 267 267 line for outgoing calls. On this particular day in question, 28th May, 1993 (refer C/B/H/C/, 7/6/94, first submission, ref 0368), there were no outgoing calls to Waverley Telecom Fault Diagnostic Centre. In fact, the Resource Team will note only one successfully connected call over a four day period, which was to 087 521 711 in South Australia. As far as Ray Morris is concerned, how did he get it so wrong? How could I have rung the Glen Waverley Fault Management & Diagnostic Centre on my 267 267 line, and to have been on the phone as suggested by Portland, when no outgoing calls were registered for that day. I do remember, on a couple of occasions, ringing Telecom Commercial on my 267 230 line, but I am not sure about which actual days. There have been so many faults registered to this centre that an episode similar to the one mentioned here in the Service History of Cape Bridgewater would only be par for the course. The connotations of what has been suggested here, in this Telecom Defence Document, implies that I was playing some game, or that I was confused. The only outcome the Resource Team can arrive at from viewing this segment is that Ray Morris is somewhat confused.

19. Page 52, 2 March 1993. I would state in relation to the 6 January 1993 incident that I had had three different T200 telephones since this period, all supplied to eliminate any possibility that the telephone was the cause of the complaint.

20. Page 53, 24 February 1993. I would like to refer to the fact that I believe that Telecom continually try to portray myself as being the person who complains about my service. Of course I do complain about my service and you would note from my statements in relation to Telecom's breaches of duty and negligence that I have every reason to make such complaints. You would no doubt need me to bring to your attention the documents contained in Cape Bridgewater Assessment Submission of the 7 June 1994 numbered 2,001 to 2,158 which are documents from independent persons who have made complaints or indicated complaints in relation to my telephone service. I would further bring your attention to document 0338 which refers to this fault on the 24 February 1993 that this particular fault was in fact from a customer in Ballarat and received at 1100 fault reporting system. I would also make mention that the reason this person did contact 1100 was that they had previously experienced faults when trying to book my premises for two years and in particular 1991 had received RVA for a two month period (Gladys Crittenden).

21. Page 54, 2 March 1993. In regard to David Conway's statement that Telecom technicians incorrectly removed the lighting modules on the bearer at Cape Bridgewater RCM I would draw your attention to the Can We Fix The Can Telecom document reference Cape Bridgewater Part Two page 1 lightning strikes.

I would state that David Conway also quotes an incorrect statement regarding Gordon Stokes. He states that Mr Stokes regularly checked the CRC error counter since the RCM system was installed in August 1991. You will note that the witness statement of Terrence Black in the Telecom defence documents states a monthly check was conducted at the RAX which was the same monthly exercise carried out at the RCM. You will note that I have requested all the working documents, RCM maintenance files, ARK = RAX maintenance reports, without success.

A senior management personnel of Ray Morris's stature should not make some of the statements that he has made. The Geelong Advertiser issue, which was finally uncovered as a simple typographical error, is a good example. It is amazing to think that Mr Morris would drive from Waverley to Geelong on such a small errand. It shows the Resource Team, I believe, that those in charge of difficult Network Faults, people like Mr Morris, have not been at all efficient. Did Mr Morris not know that this type of request of the Geelong Advertiser, a request for confirmation that the Cape Bridgewater Camp did, in fact, place an advertisement in the Geelong Advertiser on a particular given day, could have been easily handled by picking up the phone and asking the appropriate department at the Geelong Advertiser? Has Mr Morris not seen Telecom's own Yellow Pages advertisement suggesting that people 'let their fingers do the walking' in order to save valuable commercial dollars?

Mr Steve Black has signed his name to a Statutory Declaration that states that the contents of the Fault Service History was compiled jointly by Telecom's technical staff. He has viewed this document and found the Report accurately represents the facts stated. All I can say to Mr Black is that he should have read this Fault Service History a little better, he should have taken more time, and perhaps then he may not have so readily signed his name to this report at all.

24. Page 66, 16 June 1993. You will note that Telecom are deceptive when putting the details of this matter in front of you. Telecom would have it that National Network Investigations have only received a complaint in relation to high pitch tone. This is, in fact, incorrect in that I had received complaints that people calling CBHC were receiving a high pitch tone and that these complaints didn't just concern the 16 June 1993. Telecom were quite happy to attribute this problem to my answering machine, however, if you look at Telecom's own defence documents at 2.28 you will note that Julian Crest from Sixty Minutes rang on the 10 June and stated that he couldn't get through

If you then look at the CCAS data at Smith Letter of Claim reference number 0372 you will note the short ring, short conversation times for the 10 June 1993. This would obviously appear to be a problem. The interesting aspect of this matter is that Robert Palmer also reports problems trying to call 267267. Not only that, but Bruce the Editor of the Geelong Advertiser Paper has stated that he has problems calling Robert and Robert Palmer was in Portland. I believe this clearly demonstrates that Telecom are happy to blame my answering machine, however my answering machine cannot be responsible for the fact that persons in Geelong calling persons in Portland are having problems.

I would also draw your attention to the Sixty Minutes facsimile from Julian Crest reference 2047 in my Letter of Claim and in particular to the third paragraph where Julian Crest states:-

"After about half an hour I contacted Service Difficulties in Sydney, they called the local operator in your area who reported back that you weren't on the phone but that the lines in your area were congested at the time."

Mr Arbitrator you may well pay particular attention to this matter. I am sure that having looked at all of the matters that I have addressed that Telecom are in breach of their duty and have been negligent on nearly every occasion attempting to blame my equipment or other customer equipment for the problems in the Portland area.

I am sure that there is no need to remind you that Telecom have not challenged the surveys which I conducted independently in the Portland and Cape Bridgewater area where people reported problems (not of my service) but with their own service and trying to contact people. Mr Arbitrator I implore you to attend through the documents for that particular period and you would note that there was quite a considerable number of problems in the Portland area at that time. I ask that you instruct Telecom to provide all information in respect to problems that the Portland Exchange and the Cape Bridgewater area experienced during this period of time.

VICTORIA

STATUTORY DECLARATION

I, Alan Smith
of Cape Denison Halcyon Camp
Port Phillip do solemnly and sincerely declare:

THAT The contents of my reply document
submitted 20 January 1995. of are
the best of my knowledge true
and correct.

AND I acknowledge that this declaration is true and correct and I make it in the belief that a person making a false declaration is liable to the penalties of perjury.

DECLARED at MELBOURNE in the
State of Victoria the 20th
day of JANUARY 1995
Before me: Alga

[Signature]