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COMMONWEALTH OF AUSTRALIA

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ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS
LEGISLATION COMMITTEE

Reference: Matters arising from Telstra annual report 1995-96

CANBERRA

Tuesday, 24 June 1997

PROOF HANSARD REPORT

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CANBERRA

also understand it, Mrs Oldfield accepted a final offer from Telstra, but I do not know the exact detail of it.

Senator CALVERT—With due respect, I am not interested in Mrs Oldfield. I am concerned about Sandra Wolf.

Mr Pinnock—I understand that, but that is what, as I understood it, the chair asked me about.

CHAIR—I did ask.

Senator CALVERT—I am sorry.

CHAIR—I asked because I wanted to know whether—

Senator CALVERT—Mr Pinnock, now that you have made that point, didn't you express serious concerns as far as Ms Wolf was concerned about Telstra's failure to provide documents sought by Ms Wolf under Freedom of Information and a deliberate attempt made by Telstra to stonewall on that issue?

Mr Pinnock—No, I dealt with—

Senator CALVERT—Would you repeat that? You did not?

Mr Pinnock—No, my comments in relation to Telstra's provision of documents or their failure to provide documents were not made, as far as I can recall, in the context of FOI. The Telecommunications Industry Ombudsman has no jurisdiction in relation to Telstra and FOI. But, from time to time, there are issues arising within the TIO about the provision of documents to complainants. From time to time, yes, I have criticised Telstra in relation to the provision of those documents. But I do not deal with FOI applications per se, Senator; in fact, I never do. If you have a specific document that you are referring to, I would be happy to—

Senator CALVERT—So you are saying that in your position you have not expressed concerns about Telstra's failure to provide documents to Ms Wolf?

Mr Pinnock—No, I did not say I have not expressed that. I understood your question to refer specifically to FOI. I have never, in the office, as far as I recollect, made any suggestion in relation to Ms Wolf's matter of criticising Telstra in relation to FOI. I may well have done so in relation to provision of documents in relation to the TIO trying to assist Ms Wolf to resolve her matter with Telstra. If you have a specific document, Senator, that you can refer me to I would be happy to deal with it.

CHAIR—Mr Pinnock, I think the question Senator Calvert is asking is: have you

at any time thought that Telstra delayed unduly in providing information to the person to whom Senator Calvert was referring?

Mr Pinnock—I cannot recollect that specifically in relation to Ms Wolf. I have certainly been critical of Telstra in relation to other aspects of its dealing with that particular complaint.

Senator CALVERT—I have not got the correspondence with me, but I have a lot of correspondence regarding this matter, I can assure you. Would you be aware, Mr Pinnock, of certain documents entitled 'Wolf PT crime' that remained on Ms Wolf's file until July 1995? And could you explain, or perhaps Telstra could explain, why Telstra destroyed those documents over a year after Ms Wolf sought those documents from Telstra under FOI? ↘

Mr Pinnock—I am aware that certain documents were created by Telstra which Ms Wolf complained about—not so much just the documents themselves but what she contended they were evidence of. That particular document you refer to I cannot specifically recollect. As to whether or not it was destroyed, it may well have been, but that is a matter for Telstra to explain, Senator. I do not know whether any document specifically was destroyed in relation to any complaint that Ms Wolf made which the TIO was looking at.

But she maintains that there are documents which were created—which were available to her under FOI and which I believe were provided to her under FOI—and which revealed that there was a campaign on the part of Telstra to monitor her behaviour. I use 'monitor' in the broadest sense; I do not mean strictly in relation to the Telecommunications Act. That is part, as I understand, of her particular claim against Telstra and the consequences that flow from that.

Senator SCHACHT—What does the phrase 'monitor her behaviour' mean? ↘

Mr Pinnock—The detail of it I cannot explain right now, because I was not on notice that that matter was going to be raised.

Senator SCHACHT—Do you know what it means? ↘

Senator CALVERT—If you let me go, I can clarify it—

CHAIR—Order! Senator Schacht, you have asked the question, 'Do you know what it means?'

Senator CALVERT—I am trying to follow a line here and I did not interrupt you—

CHAIR—Senator Calvert—Order!

Senator SCHACHT—I am not trying to interfere—

Mr Pinnock—That is my paraphrasing of what I understand her claim to be. The detail of it I cannot comment on, I am sorry, because I do not have the matter with me. In fact, I was not aware that it was to be raised by Senator Calvert tonight at all.

Senator CALVERT—But you do not deny writing to Telstra expressing your concern about the fact that Telstra was being uncooperative in providing documents? ↙

Mr Pinnock—No, of course not. I do not deny that. There would be no reason for me to deny it.

↙ **Senator CALVERT**—Fair enough, that is what I was getting to. So obviously you were concerned. I would like to know whether did Telstra become involved in monitoring and intercepting Ms Wolf's telephone line since 1986 and how does Telstra respond to allegations by Ms Wolf that she has evidence of such actions. She has raised concerns with you about monitoring and interception of her phone calls since 1986 and she believes that she has evidence of those actions. ↘

Mr Mounsher—In terms of the specific question raised by Senator Calvert, those issues have been considered as part of an attempt to negotiate a settlement with Ms Wolf. The sum total of our liability with respect to that complaint was reflected in the offer we made to Ms Wolf.

CHAIR—Have you had a letter from Mr Pinnock indicating that he was concerned about delay in documents going from Telstra?

Mr Mounsher—Yes.

CHAIR—What have you done in response to that letter?

Mr Mounsher—Some of the documents that Ms Wolf was collecting required quite considerable investigation and, in fact, creation of documents. She was seeking statements from some of the people that had been associated with her case that did not exist; so we had to go to those people to get the necessary documents prepared and, in some cases, that has taken a considerable amount of effort.

Senator SCHACHT—How much time?

Mr Mounsher—Several months.

Senator CALVERT—My information is that Telstra refused to become involved in the attempt to mediate for Ms Wolf. Why did you insist that Mr Pinnock's

representative, Mr Wally Rosswell, could not participate in the meeting between Telstra, Ms Wolf and her legal representative?

Mr Mounsher—I was not involved in the case at that stage. I am not sure I can answer that question.

Senator CALVERT—I thought you said that you were trying to mediate. My information is that—

Mr Benjamin—Can we take the first part of the question about the arbitration? She did put in a request for arbitration, and we rejected that because the substance of the claim did not seem to lend itself to arbitration. It was not a claim for compensation for loss of business. She was making the claim that we had improperly intercepted her service.

Senator CALVERT—That was the letter that was sent to you by Peter Gorman on 30 April, the points of claim?

Mr Benjamin—Yes. In fact, we had done that—

Senator CALVERT—Have you replied to that?

Mr Benjamin—We replied and we also sent a letter to you, Senator Calvert, explaining our position in respect of these matters on 22 August 1996.

Senator CALVERT—No, I am talking about a letter that was sent to you on 30 April 1997. This is from Ms Wolf's legal counsel, Peter Gorman, which expressed concern that you have yet to address the points of claim. I just wondered whether you had responded to that letter.

Mr Mounsher—Yes, we have responded to that letter. Mr Gorman's points of claim raised all the issues that had previously been put to us by Ms Wolf, and we referred to that in the offer we made to her. I cannot remember the exact details of when the letter was sent, but we certainly referred to the points of claim in that letter.

Senator CALVERT—You did make an offer to Ms Wolf in December 1996, didn't you?

Mr Benjamin—We did.

Senator CALVERT—Why did Telstra offer her counsel such a significant amount of money to settle the case and yet offered Ms Wolf virtually nothing?

Mr Mounsher—The break-up of the offer was as discussed at a mediation session and seemed appropriate in the situation.

Senator CALVERT—I put it to you that there was certainly an anomaly between the amount offered to her counsel for the short period of time he was involved and the amount offered to Ms Wolf.

Senator BOSWELL—How much did the counsel get and how much did she get?

Senator CALVERT—I would like to know the amounts, if that is possible.

Mr Mounsher—Ms Wolf was offered \$30,000, her counsel \$10,000, and there was a range of other activities that amounted to about \$6,000. So Ms Wolf's total would have been equivalent to \$36,000.

Senator CALVERT—Out of the \$36,000, could you repeat how much Ms Wolf would get out of that?

Mr Mounsher—It was \$36,000.

Senator CALVERT—She got \$36,000?

Mr Mounsher—It is \$30,000 plus a number of other areas of support such as a mobile phone to help her shift house. There is a range of other activities.

Senator CALVERT—That is different from the information I have got here. Why did you become involved in the warrant that was issued for Ms Wolf's arrest? ←

Mr Mounsher—Telstra had no involvement in the warrant for Ms Wolf's arrest.

Senator CALVERT—Well, that warrant was issued and contained names of Telstra employees. Do you deny that? ←

Mr Mounsher—As far as I understand, it was in their private capacity as neighbours as Ms Wolf.

Senator CALVERT—It has been going on for quite some time. What do you intend to be about resolving this issue with Ms Wolf?

Senator SCHACHT—The warrant? ↙

Senator CALVERT—No, I am not talking about the warrant; I am talking about the whole issue.

Senator SCHACHT—Are you saying to us that Telstra employees in a private capacity were involved in a warrant against Ms Wolf but that had nothing to do with Telstra's activities at all? ↙

Mr Benjamin—It was a neighbourhood problem, and there were other people associated with that.

Senator SCHACHT—I want to get it on the record very clearly that that is your response: that Telstra had nothing to do with it, and it was coincidental that these people who were involved in the warrant were Telstra employees.

Mr Benjamin—Yes, there was no official involvement in the warrant.

Senator SCHACHT—A final question: were any of those employees, in their capacity in Telstra, in any way involved in Ms Wolf's case?

Mr Benjamin—No, they were acting—

Senator SCHACHT—No, they were not involved in anyway in dealing with Ms Wolf's case. Is that right?

Mr Benjamin—You mean subsequent to the warrant being issued? ↙

Senator SCHACHT—No, when the warrant was issued and the names of these employees were on it, you are telling us that it was coincidental that they were Telstra employees. ↙

Mr Benjamin—Yes, it was a neighbourhood problem.

Senator SCHACHT—Okay, one last question: were any of them involved in dealing with Ms Wolf's case anyway?

Mr Benjamin—After the—

Senator SCHACHT—No, before the warrant was issued.

CHAIR—Or after.

Senator SCHACHT—It might have been after.

Mr Benjamin—Not that we are aware of, but we are happy to take it on notice.

Senator SCHACHT—Would you check that out, please, because I think this is a very serious allegation. We have to be absolutely clear that they were not doing this as a back way of bowling someone over. ↙

Senator CALVERT—I have to accept those sorts of answers.

CHAIR—Senator Calvert, we do not need your sort of sideline comments.

Senator CALVERT—I would just like to know after all this time what steps Telstra intends to take to finally resolve this matter, because it has been going for quite some time. As you have heard tonight, Madam Chair, the ombudsman has been involved and has made certain requests and there has been mediation. Yet, similar to the case that Senator Schacht raised, it seems to me that Telstra seems to want to throw money at these things rather than resolve them—

CHAIR—We do not need that sort of remark.

Senator CALVERT—And I would like to know when we can expect this matter to be resolved.

CHAIR—Mr Ward, is that one of your cases that you saw as finished? Is that one that has been arbitrated?

Mr Benjamin—No, that is—

CHAIR—So that is still under negotiation and you may seek arbitration or whatever. Is it currently with you, Mr Pinnock?

Mr Pinnock—I only want to say that it has been a long while in trying to reach resolution. It is a particularly difficult case, not the least because of the nature of the complaint made, but also because, unfortunately, it is one of those matters that you could say could have been better handled internally, initially. In other words, it is one of those things with a very long history. That affects not only the complainants' perceptions of the matter but also the perceptions of some people in Telstra, and if I might say in general, that that is one of the most difficult areas where the TIO has to try and mediate matters where, if you like, the parties are in their respective trenches and they will not get out of them.

Senator CALVERT—I have another case like that with a Mr Edward Saul from Crescent Head, but I do not want to go into that tonight because that would take us all night.

CHAIR—Senator Boswell has a question, it is 11 p.m. and we have gone half an hour beyond our time. When Senator Boswell has asked his question we should draw this to a close and the committee will decide what it will do then.

Senator BOSWELL—Mr Ward, Telstra spent \$18,732,292 on expenses to pay out \$1.74 million. If you add the \$1.74 million to the \$18 million you have saved \$500,000. Do you consider the \$500,000 that you saved was good housekeeping? You have put a lot of people through a lot of pain and suffering for a net gain for Telecom of \$500,000. Do