

BELL CANADA INTERNATIONAL (BCI) TESTS

Background

Telstra agreed with the government communications regulator AUSTEL (now ACMA) to appoint Bell Canada International Inc. (BCI) to carry out an independent study into the capability of the service lines and exchanges that Alan Smith had alleged were malfunctioning. This initially involved Alan Smith and three other COT claimants.

AUSTEL and Telstra however, agreed to a deal that allowed BCI to test only the network service lines going into the local exchanges that serviced those four businesses. They were not required to test the lines from the various local exchanges to the four individual COT businesses. Instead, Telstra had assured AUSTEL (as is shown in the official AUSTEL COT Cases Report of April 1994) that they would carry out a special type of 'service verification testing' (SVI tests) from the local exchanges to the COT business premises. This way the arbitrator could be absolutely sure that all of the COT businesses (the number had now grown to five) were operating up to the regulator's standards.

Telstra had promised that Alan's business, along with the other COT Cases, that the problem known as the Difficult Network Fault (DNF) would definitely be included in this special verification testing process. However no such tests were ever performed on Alan's service lines and/or the lines running into the Cape Bridgewater telephone exchange.

There are some critical issues that mean the tests cannot have been conducted as claimed by BCI and Telstra and that may imply that some correspondence from BCI was falsified or that Telstra falsified it themselves in their so far successful attempt to disprove **COT** claims.

The TEKELEC/CCS7 monitoring system could not have been used in the Cape Bridgewater Exchange

In the report produced by BCI, they claimed to have run 13,500 tests calls from Melbourne INTO the Cape Bridgewater exchange using the Ericsson CCS7 monitoring equipment, within the exchange, to receive those calls. They claimed a 99.8% success rate.

However, this cannot have happened, as the Cape Bridgewater exchange cannot operate the Ericsson CCS7 monitoring equipment. This has been confirmed by Brian Hodge MBA in a technical report dated 27th July, 2007 (refer **Main Evidence File No/3**). Mr Hodge concludes that BCI could not have generated their 13,000 tests through CCS7 equipment at the Cape Bridgewater RCM, because that RCM could not accommodate the Ericsson CCS7 monitoring equipment. See Brian Hodges report Exhibit 42 (BCI).

However, the equipment WAS set up in the Warrnambool exchange, which could not have been used to test these particular lines, and which was not mentioned in any report.

Two sets of tests could not have been conducted simultaneously

In addition, Telstra was running their own testing INTO the Cape Bridgewater exchange, between 28 October 1993 to 8 November 1993 from the hours of 8 am to 10 pm, using a NEAT testing unit. For 4 of the 5 days which Telstra alleged BCI had performed their testing at Cape Bridgewater, Telstra themselves were running a series of Tests for AUSTEL. Is it possible to have the two tests running simultaneously using the same single incoming number given that the NEAT process must hold the lines open for 120 seconds before the next tests is generated, and in the case of the BCI tests that system would have need fifteen seconds between each successful call to re generate the next call? In addition, the same telephone number, 055 267211, was alleged to have been used for both the Telstra and BCI tests, which were apparently being conducted simultaneously. This would seem to be highly unlikely.

Cape Bridgewater exchange	
BCI	TELSTRA
<ul style="list-style-type: none"> • 4th, 6th, 8th and 9th November 1993 • BCI set up the TEKLEC/CCS7 monitoring equipment • in the Cape Bridgewater exchange • to capture incoming calls to the Cape Bridgewater exchange from Melbourne • to the phone number, 055 267211 as the number being called 	<ul style="list-style-type: none"> • 28 October 1993 to 8 November 1993 daily from 8 am to 10 pm • Telstra set up the NEAT testing unit to perform tests • in the Cape Bridgewater exchange • to test incoming calls to the Cape Bridgewater exchange • to the phone number, 055 267211 as the number being called

Several of the letters from BCI were not on official BCI letterhead

More doubt can be raised about the BCI evidence as several of the letters used in evidence by Telstra were not on BCI letterhead. At the least BCI should have been asked to replicate them on letterhead, but this was not requested.

Conclusion

The only possible conclusion is that the BCI tests were never conducted at the Cape Bridgewater exchange. Even had different equipment been used, the two tests could not have occurred simultaneously.

Another uncomfortable possibility presents itself, that BCI did not actually write some of the letters produced in evidence, or if they did, were trying to distance themselves by not using official letterhead.

Despite these anomalies, the BCI test results were used by Telstra to support their arbitration defence of Alan Smith's claims, without explanation of the deficiencies and omissions.

Documentary Evidence

Alan Smith has supplied all of the documentary evidence to support the assertions made in the Background section to the Hon Tony Abbott, Prime Minister of Australia, various government ministers and the Australian Federal Police.

We have masked the actual names of Telstra and BCI employees the arbitrator, TIO and TIO arbitration consultants for obvious reasons. However, the Hon Tony Abbott, Prime Minister office and various Coalition ministers including the Australian Federal Police have been provided those names.

Exhibit #	Type of correspondence	Date	From	To	Summary of content	Commentary
1	Letter	29th September 1993	Bell Canada International Inc	General Manager, Network Operations, Telstra, Brisbane	This person was to be appointed to the investigation. On page 4 of this letter, are the references to his qualifications. With thirty-three years of line and staff experience, had previously handled other international consultation works for BCI.	Note that Exhibits 1 – 7 are sent by three different BCI consultants to Telstra All correspondence is on official letterhead, which includes the BCI postal address in Ontario, Canada and the Telex/fax and telephone numbers.
2	Letter	30 th September 1993	Director Sales & Marketing Asia Pacific, Bell Canada International Inc	Telstra's General Manager, Network Operations, Telstra, Brisbane	This letter is included here to show that, when BCI write to Telstra it was on their letterhead. However, the two alleged BCI letters that Telstra submitted to the Senate Estimates Committee 'On Notice', in which BCI stated only one minor type error had occurred in the Cape Bridgewater tests, were not written on BCI letterhead. This raises a doubt as to their authenticity.	
3	Fax	5 th November 1993	Director, Business Development, Bell Canada International Inc	Telstra's General Manager, Network Operations, Telstra Brisbane	Letter discusses the BCI qualified technical consultant who would head the BCI study in Australia.	
4	Fax with letter	5 th November 1993	Fax with attached letter from Director Sales & Marketing Asia Pacific, Bell Canada International Inc	Telstra's General Manager, Network Operations, Telstra, Brisbane	Letter discusses the qualified technical consultant who would head the BCI study in Australia.	

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5	Letter	30 th November 1993	BCI Director Sales & Marketing Asia Pacific, Bell Canada International Inc	Telstra's General Manager, Network Operations, Telstra, Brisbane	This letter discusses further tests that might be conducted by BCI while he was still in Australia.	
6	Letter	14 th December 1993	Consultant at Bell Canada International Inc	Telstra's General Manager, Network Operations, Telstra, Brisbane	Consultant (on behalf of BCI) is answering criticism from Telstra regarding the way BCI carried out their assignment in Australia.	
7	Letter	14 th December 1993	Consultant from Bell Canada International Inc	Telstra's General Manager, Network Operations, Telstra, Brisbane	Consultant (on behalf of BCI) is answering criticism from Telstra regarding the way BCI carried out their assignment in Australia.	

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8	Letter	11 th August 1995	Consultant for Bell Canada International Inc	To Telstra's arbitration liaison officer	<p>This letter refers to a previous letter mistakenly attributed to Telstra, dated 6th September 1994.</p> <p>The letter was actually from Telstra's General Manager, Network Operations, Telstra, Brisbane, not from Telstra's Arbitration Liaison officer.</p> <p>The letter dated 11th August from the BCI consultant who supposedly did the tests, was written in response to allegations previously made by Alan Smith that during and after the arbitration process, that the Cape Bridgewater BCI tests were fundamentally flawed.</p> <p>In this letter BCI states that the BCI report included an incorrect date (5th November 1993) but maintains that this does not <i>"... affect the validity of the testing process or the test results"</i>.</p> <p>In the first paragraph, the ZBCI consultant states: <i>"I am sorry for the late reply but I did not receive your correspondence dated September 6, 1994 concerning the anomaly found in the date of the test call records."</i></p> <p>Although this letter was written to Telstra's arbitration liaison officer, the letter dated September 6, 1994 was from Telstra's General Manager, Network Operations, Telstra, Brisbane, not from Telstra's arbitration liaison officer (Exhibit 9).</p>	<p>This letter was not on BCI letterhead which gives some reason to doubt its authenticity.</p> <p>Alan Smith has also been able to show that another type of testing was being carried out over four of the five days of BCI testing and that none of the BCI test calls on the four days in question, the 4th, 6th, 8th and 9th November 1993, could have been carried out as shown in the BCI report. (See the introduction).</p> <p>In simple terms, the lines would have been too congested.</p>
9a	Internal email	20 th June 1994	Chief Engineer for, Telstra	Telstra's General Manager, Network Operations, Telstra, Brisbane Telstra and others	<p>This email notes</p> <p>Re Cape Bridgewater BCI tests: <i>"...It would appear that there is an error of some sort in the report of the testing from Richmond on the afternoon of the 5/11/93."</i></p>	<p>FOI folio N00040</p> <p>This email refers to a letter from Alan Smith doubting the testing process used by BCI.</p>

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9b	Letter, 2 pages	6 th September 1994	Telstra's General Manager, Network Operations, Telstra, Brisbane	To the consultant who supposedly did the Cape Bridgewater Bell Canada International Inc	This letter confirms that at least one set of BCI tests conducted at Cape Bridgewater were impracticable – in other words, they could not have been carried out.	FOI folio N00005 and N00006
9c	Internal email	23 August 1994	Telstra's, Technical Support	Telstra's General Manager, Network Operations, Telstra, Brisbane	This email confirms the same set of BCI tests were impracticable – ie they could not have been carried out as claimed, both because the equipment they claimed to have used could not be operated in that exchange and because other testing was happening simultaneously.	FOI folio N00037
10	Letter	NOT Dated	Telstra's General Manager, Network Operations, Telstra, Brisbane	BCI Director Sales & Marketing Asia Pacific, Bell Canada International Inc	Telstra's General Manager, Network Operations, Telstra, Brisbane <u>did</u> sign the letter. This letter shows Telstra's General Manager, Network Operations, Brisbane and BCI consultant regularly communicated during this period.	In this BCI consultants' letter dated 11th August 1995 (Exhibit 8), he states: <i>"...I also reviewed my personal travel log to verify the times and dates of my movements from Melbourne to Portland during the testing period"</i> . He does not make any reference to the actual dates or times he travelled to Portland, and he makes no reference to travelling to Cape Bridgewater at all, even though this is where the tests were being generated to.
11	Signed witness statement	12 th December 1994	Prepared by a Telstra employee, in support of Telstra's arbitration defence of Alan Smith's claim.		On page two of this document this employee states: <i>"In addition to this testing system, I made arrangements to utilise CCS7 call data which was derived from equipment set up at the Warrnambool AXE exchange."</i>	The CCS7 equipment was set up in the Warrnambool exchange (120 kilometres from Cape Bridgewater) because neither the Portland Exchange nor the Cape Bridgewater RCM could accommodate this equipment. see Exhibit 11 and Exhibit 42 (BCI)
12	signed witness statement	8 th December 1994	prepared by another Telstra consultant in support of Telstra's arbitration defence of Alan Smith's claim.		On page 4 of this document this employee states: <i>"At the beginning of our second investigation of Mr Smith's telephone service, we placed CCS7 testing equipment at the Warrnambool exchange because the Portland Exchange, despite being an AXE digital exchange, does not utilise CCS7 signalling and could not facilitate CCS7 testing."</i>	This supports Brian Hodges report of 27 th July 2007, which states that BCI could not have generated their alleged 13,000 tests calls to the CCS7 equipment at Cape Bridgewater RCM, because as this Telstra' consultant concludes, the RCM <i>"... could not facilitate CCS7 testing."</i>

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13	Copy of the BCI Addendum Report	10 th November 1993	Prepared by BCI in relation to John Main (Glen Waters Fish Farm) and Alan Smith (Cape Bridgewater Holiday Camp)		On the bottom of page two of this report BCI state: <i>"...As shown in 15.13 and 15.23 the Tekelec CCS7 monitoring system was used to monitor all CCS7 links terminating to the homing exchanges of the two COT clients."</i>	In the case of Alan Smith, how could BCI have generated their 13,000 tests calls through the CCS7 links terminating to the homing exchange, when the CCS7 equipment couldn't be used at that the Cape Bridgewater RCM?
14	Internal Telstra document	No Date	Telstra	To AUSTEL	<p>This document discusses tests between 18 Oct 93 to 8 Nov 93 regarding the Cape Bridgewater Holiday Camp.</p> <p>It confirms that, between 28th October 1993 and 8th November 1993, Telstra themselves (NOT BCI) were conducting their own tests.</p>	<p>It has since been established in the official government regulatory AUSTEL COT Cases report of April 1994 point 11.12 that BCI only tested the lines into the exchanges of the COT Cases and did not do the testing from the exchange to the customer premises</p> <p>AUSTEL allowed Telstra to test the exchange lines to the COT Case businesses premises under special conditions called verification testing which would be conducted once those COT cases were in a settlement arbitration process.</p> <p>Telstra did not test those lines even though they advised the arbitrator under oath that they did. This is a separate issue detailed in the report titled "Service Verification Tests" that will be available for scrutiny on absentjustice.com.</p>
15a	Letter	10 November 1993	Telstra Network Manager	John MacMahon, General Manager for Consumer Affairs, AUSTEL	This letter confirms from the statement on page one, paragraph 3: <i>"Each test call is held for 100 seconds to conduct transmission tests and detect drop-outs etc. This holding the line open for 100 seconds between each test call would have made it impossible for any other type of testing to have been conducted at the same PTAR testing station/ number 055 267211 during the date of 28th October and 8th November 1993, which BCI alleged they conducted their test on 4, 5, 6, 7 and 8 November 1993"</i>	Note: no other test call can be generated to the same PTARS test number while NEAT testing is being performed.

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15b	Internal Telstra Memo	15 Nov 1993	Telstra's Network Manager	Telstra's General Manager, Network Operations, Telstra, Brisbane	This letter notes at point 2: <i>"...In the case of NEAT testing calls had to be generated in low traffic periods in order to achieve and adequate sample size in the time available."</i>	This tends to confirm that NEAT and the BCI testing could not have been conducted simultaneously.
16	Official AUSTEL COT Report	13 th April 1994	AUSTEL	The Communications Minister Michael Lee MP	Page 157 confirms that NEAT testing was being carried out to 055 267211 between 28 th October and 8 th November 1993, between 0800 and 2200 hours, on each of those days.	Even if the CCS7 monitoring equipment could be operated at the Cape Bridgewater RCM, the testing could not have been performed between 4 th and 8 th November 1993, because they would have clashed with the NEAT testing (see also Brian Hodges' report dated 27 th July 2007).
17	Senate Hansard records	26 th September 1997			These two documents, pages 108 and 109 from Senate Hansard records of 26th September 1997, ask the same questions regarding the BCI tests. Senator Schacht asked, in a question 'on notice', to see a copy of the same BCI letter referred to at Exhibit 8.	
18	Internal Telstra fax	7 July 1993	A second Telstra network engineer		This fax confirms that a delay of at least fifteen seconds is required between each test call performed to the PTARS 055 267211 line into the RCM at Cape Bridgewater	FOI folio K03888 This contributes to the case that both sets of tests, the Telstra and the BCI, could not have been conducted simultaneously.

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19a and 19b	Summary document		Alan Smith		<p>Using the date of the alleged BCI tests to 055 267211 on 5/11/93, Alan Smith has attached a brief summary of his own, using the two separate sets of tests that BCI allege terminated to the same 055 267211 PTARS over a particular period.</p> <p>This summary shows that it was not possible for these tests to have been carried out as BCI claim.</p> <p>Exhibit 9(a) shows that Telstra advised the relevant BCI consultant that: <i>“Specifically, the start and finish times for the test run from Richmond digital exchange (RCMX), test line 03 428 8974, to Portland exchange, Cape Bridgewater RCM (CBWR) number range, test line 055 267211, (detailed in section 15.23 of the report) are impracticable.”</i></p> <p>Exhibit 9(b), a Telstra internal email, discusses the same set of impracticable tests, noting however: <i>“As Rudi and Gerry (BCI consultants) intended to go to Portland to see to see the exchange and RCM, travelling on Friday afternoon 5/11/93, they ensured that a TRT run from Richmond had ceased and that a run from South Yarra had commenced with no troubles before they left Melbourne at about 12.45 that day. They made a call from Warrnambool exchange to ensure the run from South Yarra was terminated, but have no notes to confirm the date and time of the call.”</i></p> <p>The ‘Gerry’ referred to here is the relevant BCO consultant (Exhibit 9(b)).</p> <p>Note: in the first paragraph of BCI consultants letter (Exhibit 8), he states “I also reviewed my personal travel log to verify the times and dates of my movements from Melbourne to Portland during the testing period”, but gives no time and date details.</p>	
20	Letter	9 th December 1993	Cliff Mathieson, AUSTEL	To Telstra's Manager of Commercial	<p>This letter states: <i>“Having regard to the above, I am of the opinion that the BCI report should not be made available to the assessor(s) nominated for the COT Cases without a copy of this letter being attached to it.”</i></p> <p>Note: In BCI letter dated 14th December 1993, to Telstra’s General Manager, Network Operations, Telstra, Brisbane Exhibit 6 (BCI), a further BCI personal states: <i>“The purpose of this letter, is to respond to comments made in Austel’s letter to Mr Ian Campbell dated 9 December 1993. Finally, Austel’s statement in the letter that in its “opinion” the BCI report should not be made available to the assessors(s) nominated for the COT Cases without a copy of this letter being attached to it.”</i></p>	

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21	Draft of Letter	15 th December 1993	Telstra's General Manger	Robin Davey, Chairman, AUSTEL	<p>This draft letter discusses some of the shortfalls in the BCI tests.</p> <p>on page one of this letter Mr Campbell refers to a letter dated 9th December 1993, from Cliff Mathieson (Exhibit 20). On the last page of this letter Telstra's General Manager of Commercial states: <i>"Considering the above circumstances, Telecom cannot agree to attach a copy of AUSTEL's letter of 9 December to the BCI report if the latter is made available to the assessors(s) nominated for the CoT Cases."</i></p> <p>A hand-written note at the bottom of document A00407 points to the 9th December 1993 letter from AUSTEL, and notes: <i>"...there is a multitude of inaccuracies. This is a s'ment (statement) to c'firm (confirm?) Austel that we (T) (Telstra) will not provide assessor with all the facts."</i></p>	<p>FOI folio A00404 to A00407</p> <p>Alan Smith did not receive this letter from Telstra's General manager of Commercial until after Telstra had submitted their defence of Alan's claim: the handwritten note had already been added.</p>
22	Letter	2 nd May 1994	Arbitrator	Arbitration Resource Unit Manager	<p>The letter states, in the last paragraph on page one:</p> <p><i>"I am anxious for these matters to proceed as expeditiously as possible. In the circumstances I believe it would be appropriate for the Resource Unit to familiarise itself with documentation which will unquestionably be placed in evidence, namely: (1). Bell Canada International Inc, Report to Telecom", 1 November 1993; (3) Telecom Australia, "Response to Coopers & Lybrand Report and Bell Canada International Report", December 1993."</i></p>	
23	Letter	18 th July 1994	Arbitrator	Arbitration Resource Unit Manager	<p><i>"On the 13 July 1994, the Resource Unit requested copies of the Bell Canada Report, the Coopers & Lybrand Report and the Telecom response to these reports."</i></p>	

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24	Letter	11 th August 1994	Arbitrator	Alan Smith	<p>This letter lists the documents the Arbitrator had received from Telstra regarding the BCI information.</p> <p>Note: This list does not include the letter dated 9th December 1993, from AUSTEL's Cliff Mathieson (Exhibit 20), which Mr Mathieson stated should be provided to the assessors(s) nominated for the COT Cases.</p>	This implies that the Resource Unit did not see Cliff Mathieson's letter of 9th December 1993. Exhibits 9(a), 9(b), 22, 23 and 24 suggest that the arbitration resource unit were unaware that Telstra had actually acknowledged internally that the BCI Addendum Cape Bridgewater Report was impracticable and that neither the resource unit nor Dr Hughes ever saw AUSTEL's letter of 9th December 1993.
25	Letter	29 June 1995	Alan Smith's Solicitors, Tait's of Warrnambool	Cliff Mathieson, Chief Engineer, AUSTEL?	This letter asks relevant questions regarding both the BCI tests performed at Cape Bridgewater during November 1993, and the NEAT testing carried out on the same dates.	
26	Letter	12 July 1995	Cliff Mathieson, AUSTEL	Tait's of Warrnambool?	This letter responds to the Tait's letter (Exhibit 25): <i>"...The tests to which you refer were neither arranged nor carried out by AUSTEL. Questions relating to the conduct of the tests should be referred to those who carried them out or claim to have carried them out."</i>	

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27a	Official COT Report	13 th April 1994	AUSTEL	Hon Michael Lee MP, Minister for Communications	<p>Page 243, point 11.8, the author states: <i>“AUSTEL had written to Telecom informing it that the claim in the Bell Canada International report to the effect that Telecom’s customers received a grade of service that meets global standards goes too far because the study was an inter-exchange study only and did not extend to the customer access network – AUSTEL had agreed to the study being so limited on the basis that other monitoring it had requested Telecom to undertake on AUSTEL’s behalf should provide AUSTEL with the data on the efficacy of the customer access network.”</i></p>	<p>The Telstra document at Exhibit 14 relates to the NEAT testing conducted to the RCM at Cape Bridgewater, noting: <i>“An investigation has been carried out into the service supplied to customer Mr Alan Smith of Cape Bridgewater Holiday Camp. In accordance with the AUSTEL Directive date 12 August 93, paragraph 16 calls to and from the customers service etc”.</i></p> <p>This confirms that AUSTEL were party to the NEAT testing process.</p> <p>Exhibit 15(a), Telstra’s internal memo dated 15th November 1993, states: <i>“In response to the letter from Mr J MacMahon to (Telstra) of 11 November 1993 on the issue of the hours over which the COT test call program was conducted, the following explanation and comments are given”.</i></p> <p>Exhibit 15(b), Telstra’s letter dated 4th November 1994 to AUSTEL’s John MacMahon, also discusses the NEAT testing process, so why did AUSTEL advise Alan’s Lawyers differently?</p>

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28a	Letter	27 April 1994	Telstra's Arbitration Liaison Officer	Robin Davey, Chairman, AUSTEL	<p>This letter states: <i>“Attached for your information, an updated draft of the standard Verification Tests for use in Telecom’s Public Switched Telephone Network. The tests have been prepared in consultation with Mr Cliff Mathieson of AUSTEL and will form the basis for determining whether an individual telephone service is operating satisfactorily. I would appreciate your confirmation that the tests have met all the requirements of AUSTEL for Service Verification Tests. Once agreement has been reached of these Verification Tests, Telecom will be in a position to commence the testing of the services associated with COT customers, and ensure they meet the agreed standard for a satisfactory service.”</i></p> <p>“AUSTEL had agreed to the study being so limited on the basis that other monitoring it had requested Telecom to undertake on AUSTEL’s behalf should provide AUSTEL with the data on the efficacy of the customer access network.</p>	<p>The service Verification Tests (SVTs) referred to in this letter were created as a result of the trade-offs agreed to between AUSTEL and Telstra, SEE Exhibit 27a (BCI).</p> <p>It has been well documented in the Verification Issues Part 1 that Telstra used the results of the Service Verification Tests carried out at Alan Smith’s premises during his arbitration as part of their arbitration defence, even though they already knew that the tests were deficient.</p> <p>Exhibits 27(a) and 28(a) show that:</p> <ul style="list-style-type: none"> • AUSTEL had stated that the BCI tests were limited. • Telstra had confirmed that the tests to the customer access network (i.e. the SVTs), in particular the tests to Alan Smith’s premises, were not performed correctly. <p>This means that the service line to Alan Smith’s business was not tested, either during the limited BCI testing that did not take the customer access network into consideration, or in the Service Verification Testing (SVT) that AUSTEL warned Telstra was deficient.</p>
28b	Letter	21 st August 1995	Telstra's Arbitration Liaison Officer	Telecommunication s Industry Ombudsman	<p>This letter discusses the relevant BCI letter at Exhibit 8. Third paragraph it notes: <i>“I enclose a copy of the letter dated 11 August 1995 from (name deleted) of Bell Canada International to me in which responds to Telstra's letter to BCI of 6 September 1994.”</i></p> <p>As administrator of Alan Smith's arbitration, he TIO should have noticed the many inaccuracies in the BCI 11 August letter and acted upon them.</p>	<p>Note:</p> <p>Alan Smith had already provided enough evidence that the BCI report was fundamentally flawed, to the TIO by 22 June 1995.</p> <p>The TIO's office should have, at least by the date of this letter from Telstra's liaison officer on 21 August 1995, investigated the Telstra and BCI reports thoroughly in the light of that evidence.</p> <p>If he had paid attention to that evidence and understood the matter properly, he should have acted on that evidence. His failure to do so might be considered an attempt to pervert the course of justice.</p>

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29	Letter	22 nd August 1995	Alan Smith	Hon Michael Lee MP, Minister for Communications	This letter discusses Alan Smith’s concerns about the flawed BCI tests	<p>Issues arising out of Exhibits 28, 29 and 30</p> <p>By the time the TIO had received this letter dated 30th August 1995, from the Minister’s office (Exhibit 30 - please note the TIO hand-written note to the arbitration Special Counsel, the TIO had already received information dated 21st June 1995, from the arbitrators, which had incorporated Alan’s Smith’s letter dated 20th June 1995 and attachments, regarding the flawed BCI tests.</p> <p>As an independent administrator, the TIO should have:</p> <ul style="list-style-type: none"> • correctly investigated Alan Smith’s letter of June 21st to the Arbitrator, and • investigated the suspect letter allegedly written by the relevant BCI consultant Exhibit 8 (BCI) <p>In Exhibit 28, Telstra’s Arbitration consultant states: <i>“I refer (the Arbitrator) letter to you dated June 1995, which enclosed a copy of a facsimile from Mr Smith to (the Arbitrator) dated 20 June 1995, The Arbitrator copied this letter to Telstra.”</i></p> <p>This shows that, six weeks after Dr Hughes had deliberated on Alan Smith’s arbitration, he was still corresponding with Telstra on the same BCI issues neither he nor Telstra addressed during Alan Smith’s arbitration.</p>
30	Letter	30 th August 1995	Hon Michael Lee MP, Minister for Communications	Telecommunication s Industry Ombudsman	This letter states: <i>“Mr Smith wrote to the Minister in relation to his ongoing dispute with Telstra about the Bell Canada testing process at Cape Bridgewater. I am referring these facsimiles to you in view of your responsibility for the Casualties of Telstra (COT) arbitrations.”</i>	
31	2 Letters	28 th and 29 th October 1997	Telstra	Pauline Moore Secretary of Senate	These letters confirm that Telstra gave Ms Pauline Moore, Secretary of the Environment, Recreation, Communications and the Arts Legislation Committee, a number of documents relating to the BCI report, including one of the letters from the relevant BCI consultant.	Note: In the above Exhibit 17 (BCI), it is confirmed that Senator Schacht put a question on notice to the Senate Estimates Committee, asking for the relevant Cape Bridgewater (BCI) letter see Exhibit 8 (BCI) be provided to the Senate, and is directly related to the information Telstra provided to Ms Pauline Moore, Exhibit 31(BCI)

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32	Senate Document	26 th September 1997	Senate Document	Questions raised on notice in the Senate Estimates Committee	<p>This document is headed "Senator Ron Boswell" It lists various questions regarding the BCI report, which were put on notice to the Senate.</p> <p>At point 5, Senator Boswell asks: <i>"Why did Telstra knowingly use the addendum BCI Report Cape Bridgewater in Arbitration when Telstra was aware that the report was flawed?"</i></p> <p>At point 6 he asks: <i>"Why did Telstra not advise the Arbitrator, the administrator or the COT cases that the BCI Report was flawed?"</i></p>	
33	Senate Document	26 September 1996	Senate Document	Questions raised on notice in the Senate Estimates Committee	<p>Telstra responds to the questions listed above (Appendix 2): <i>"Telstra has not at any time believed that the BCI Report was flawed. In relation to the allegations made by Mr Smith that the BCI Report was flawed, Telstra notes that Mr Smith raised these allegations with the Arbitrator during his arbitration and with the Administrator."</i></p>	<p>NOTE: Telstra did not actually answer Senator Boswell's question instead deflecting it without confirming that they knowingly withheld their knowledge that the BCI tests were fundamentally flawed from the arbitrator.</p>
34	Senate Document	Submitted by Telstra on and around the date of 28 Oct 1997	Telstra	Senate Committee	<p>The following is Telstra's further reply to various questions:</p> <p><i>"The only inaccuracies in the BCI report which Telstra is aware of is an apparent clash in the dates of two sets of testing to the Portland Exchange, Cape Bridgewater RCM (CBWR) number range, test line 055 267 211, see section 15.23 of the BCI Report."</i></p> <p>Telstra then refers to the BCI Cape Bridgewater letter of 6th September 1995 and introduces yet another letter from the referred to as 'attachment 7' also from the same relevant BCI consultant.</p>	<p>Attachment 8 is the letter from the relevant BCI consultant that was not on letterhead and which is referred to above as Exhibit 8 (BCI). It is addressed to Telstra's arbitration liaison officer (also discussed below). The second letter referred to by Telstra from the relevant BCI consultant, is dated 10th August 1995, to Telstra's internal solicitor see Exhibit 36, below.</p>

Exhibit #	Type of correspondence	Date	From	To	Summary of content	Commentary
35	Questions of Notice from Senate Estimates Hearing, Hansard Page 139.	Between 26 Sept and 28 Oct 1997	Senate documents discussing questions raised with Telstra	Questions answered by Telstra	<p>A record of a question on notice to the Senate by Senator Schacht, and Telstra's response which refers to the two attached letters from BCI to Telstra</p> <p>Senator Schacht: <i>"...In relation to the complaints by the CoTs that the Bell Canada International Report was fabricated could Telstra provide a copy of a letter from Bell Canada International to Telstra?"</i></p> <p>Answer: Telstra: <i>"...Copies of a letter dated 10 August, 1995 from (the relevant consultant) of Bell Canada International to Telstra and a letter dated 11 August, 1995 from Bell Canada International to Telstra are Attachment 1."</i></p>	

Exhibit #	Type of correspondence	Date	From	To	Summary of content	Commentary
36a	Letter	10th August 1995	The original BCI Cape Bridgewater testing consultant	Senior Solicitor, Telstra Corporation Limited	These two letters are general correspondence about the case, but they do not appear to make much sense in context.	Why would a large corporation allow such important letters to be sent on plain paper?
36b	Letter	11th August 1995	Relevant BCI consultant	Telstra's Arbitration liaison officer	<p>In these letters, the BCI consultant apparently strongly condemns Alan Smith's allegations regarding BCI work in Australia.</p> <p>However, neither of these two letters is on a BCI letterhead.</p> <p>Also, in these two letters there is an evident level of confusion expressed by the relevant BCI consultant relating to two different matters:</p> <ul style="list-style-type: none"> • He is unlikely to have gone to either Cape Bridgewater or Portland, as his testing equipment could not be operated at either exchange. If he had conducted any testing at all, it would have been done from the Warrnambool exchange which is not mentioned in the letters. • He seems to be unclear who had written what letter to him. He is replying to letter from General Manager, Network Operations, Telstra, Brisbane, by sending two replies, one to Telstra's internal solicitor and one to Telstra's Arbitration Liaison Officer, neither of whom sent the original letter to which he was replying. 	

Exhibit #	Type of correspondence	Date	From	To	Summary of content	Commentary
37a	[What kind of document?]	26 Sept to 26 Oct 1997	Senator Boswell, question Senator Boswell, question	Telstra - questions on notice Telstra - questions on notice	<p><i>“What was the nature of the CoT cases’ complaints concerning the Bell Canada International Report (the BCI Report)? Please list the names of the CoT case members and specific complaints.”</i></p> <p><i>“Did the Arbitrator refer to the BCI report in his awards?”</i></p> <p>Telstra responded by providing the names of four of the COT claimants, Smith, Love, Gillan and Garms. Telstra attached to this reply the sections of the arbitrators Arbitration Awards that recorded the BCI report as being accepted into evidence.</p>	<p>Since the BCI letter dated August 10th 1995 to Mr Armstrong, included a strong condemnation of Alan Smith’s allegations regarding the BCI Cape Bridgewater work in Australia, why didn’t Telstra’s Arbitration Liaison Officer provide the TIO with a copy of this letter too?</p> <p>Could it be that the letter to Telstra’s solicitor didn’t actually exist in August 1995 but was manufactured in September or October 1997 to add more ‘punch’ to Telstra’s replies to questions from the Senate?</p>
37b	Three documents	28 th October 1997	by Telstra	Ms Pauline Moore, Secretary Environment, Recreation, Communications and the Arts Legislation Committee	<p>These three documents were part of a number of attachments provided</p> <p><i>“...As previously advised, enclosed are Attachments associated with Senate responses provided to your Office yesterday.”</i></p> <p>These three pages are from the Arbitrator 11th May 1995 Award in the Alan Smith arbitration matter confirming the that Bell Canada International Inc, tests were accepted as evidence by the arbitrator.</p>	
38a	Document [Was this a composite document of letters etc?]	20 June 95	Alan Smith’s original letter to the arbitrator	Ms Pauline Moore, Secretary Environment, Recreation, Communications and the Arts Legislation Committee	<p>Telstra referred to this document in their reply to Senator Boswell’s question. It includes letters from Alan Smith to the Arbitrator dated 20th June 1995, in which Alan questions the Arbitrators’ handling of the BCI issues during his arbitration.</p>	

Exhibit #	Type of correspondence	Date	From	To	Summary of content	Commentary
38b	Letter	21 June 1995	Arbitrator	TIO	<p>Another letter referred to by Telstra in their answer to Senator Boswell.</p> <p>The letter is from the Arbitrator to TIO on 21st June 1995, noting:</p> <p><i>"...I do not believe I have jurisdiction over this matter any longer, nor do I consider it appropriate for me to enter into correspondence with either of the parties regarding the conduct of the proceedings or matters which may or may not have come to light subsequently to the delivery of my award."</i></p>	
39	Fax	22 nd June 1995	TIO Special Counsel No (1)	TIO Special Counsel No (2)	<p>This letter discusses the Arbitrator's letter of 21st June re Alan Smith noting:</p> <p><i>"...Could you please have a look at (the Arbitrators) letter to (the TIO) dated 21 June '95 re Alan Smith. John wants to discuss it on Monday, and what the approach should be re parties seeking to revisit issues post Arb'n (Arbitration). His position is not to open the can of worms."</i></p>	<p>This letter was written by the arbitrator in response to Alan Smith's letter to him on 20th June 1995, which attached a number of documents, including FOI documents, that Alan received two weeks after his arbitration on 26th May 1995 see Exhibits 9-b and Exhibit 9-c.</p> <p>One has to question what the "can of worms" is and why they are reluctant to open it.</p>
40	Statutory Declaration	6 th November 1995	Signed by John Main		<p><i>"...I spoke to (name deleted) from the Telecommunications Ombudsman's Office at approximately midday today. She advised me that the Bell Canada International Inc Report to Telecom Australia dated 1 November 1993 and the addendum dated 10 November 1993 were flawed documents."</i></p>	<p>Note:</p> <p>TIO Special Counsel No (1) had faxed the arbitrator's letter of 21st June 1995 to TIO Special Counsel No (2) on 22nd June 1995, see above, Exhibit 39, recommending that they not 'open the can of worms'.</p> <p>It appears as though the TIO and the TIO Special Counsel, thought it more appropriate NOT to investigate the flawed BCI tests than to risk further exposing Telstra's use of the flawed BCI tests.</p>

Exhibit #	Type of correspondence	Date	From	To	Summary of content	Commentary
41	Letter	7 th August 1995	TIO	Alan Smith	This letter is also related to the Arbitrators 21st June 1995 letter and the 'can of worms' noting: <i>"...You have also complained that on 26 May 1995 you received further FOI documents from Telstra which you state, would have assisted your claim significantly. In particular, you claim the further FOI documents released confirmed that Telstra internally acknowledged to Bell Canada International Inc ("BCI") that your complaints were correct in suggesting that the BCI testing of your telephone service was "fabricated" as the testing could not and did not take place as reported in the BCI Addendum Report; As Administrator of the FTAP, I have a duty to ensure the integrity of the procedure. Your complaints go to this issue"</i>	Alan Smith has not received any official response from either Telstra or the TIO as to why Telstra has been allowed to use known flawed arbitration material in defence of their customer complaints.
42	Report	27 July 2007	Brian Hodge MBA	Commissioned by Graham Schorer COT Spokesperson to review the Telstra and BCI claims	This report prepared by Brian Hodge MBA, has also been included in a separate document that deals solely with the Service Verification Tests (SVT) Part 1. It concludes that both Telstra's SVT and BCI Cape Bridgewater tests were fundamentally flawed. See absentjustice.com Main Evidence File No/3	

Exhibit #	Type of correspondence	Date	From	To	Summary of content	Commentary
43a	Copy	25 th February 1994	Senate Hansard page 140		<p>The two pages confirm that Senator Alston, Shadow Minister for Communications and Senator Ron Boswell (National Party) ask AUSTEL's Chairman, Robin Davey during this Senate Estimates Committee hearing:</p> <p>[P 140]</p> <p>Senator ALSTON – <i>“...It was rhetorical. Are you able to indicate whether you have detected or identified any discrepancies in the BCI’s report on Telecom’s network or will that be the subject of your report?”</i></p> <p>Mr Davey – <i>“...It will be the subject matter in our report. The main comment that I make on the BCI report at this point – indeed we have conveyed this to Telecom and it has taken action to correct what we saw as the major limitations in the BCI report – is, namely, that it focused on the exchange to exchange quality of service that Telecom was offering at that point. It did not extend from the exchange to the customer’s premises.”</i></p> <p>Senator ALSTON – <i>“...It seems an extraordinary omission, does it not?”</i></p> <p>Mr Davey – <i>“...Not really.” ...And then...”As I recall it, it used words to the effect that “Bell Canada International has cleared our network. In other words, it said its network was given a clean bill of health whereas its exchanges had been given a clean bill of health – not its complete network, as the ordinary person would understand it.”</i></p> <p>Senator ALSTON – <i>“...So that was the least description of reality, was it?”</i></p> <p>Mr Davey – <i>“...It was less accurate than it should have been.”</i></p>	

Exhibit #	Type of correspondence	Date	From	To	Summary of content	Commentary
43b	Copy	25 th February 1994	Senate Hansard pages 142		<p>[P 142]</p> <p>Senator BOSWELL – <i>“...Can you give this committee an assurance that your report will address the problems that have happened in the past, and that we will never face this situation again”?</i></p> <p>Mr Davey – <i>“... The report will clearly address the deficiencies in the past and what should be done to ensure that it does not happen in the future.”</i></p>	
44	Transcript of interview	22 nd September 1994	Commonwealth Ombudsman representatives John Wynack and James Hind	with representatives from AUSTEL/ACMA John McMahon and Bruce Matthews	<p>This transcript confirms:</p> <p>[p10] MR McMAHON notes: <i>“...No, but I mean let’s say the – you’re talking about the BCI supplementary inter-exchange network. Now, the – that was a matter of conducting some traffic tests in a range of exchanges and the document itself shows that they were – that the tests were run in December.”</i></p> <p>[p11] MR WYNACK: <i>“...Those were the reports of the BCI tests. Did you ever examine the raw data on which those reports were based?”</i></p> <p>MR McMAHON: <i>“...I don’t believe so.” ...and ...”</i> <i>Yes, the background was BCI had undertaken some technical tests and the COT cases themselves and AUSTEL’s technical people had some reservations about them and as a result of those reservations Telecom and BCI do those supplementary tests and the rotary hunting tests. So my recollection is that those reservations were reservations which arose from viewing the original report rather than the technical data itself, you know, the detailed technical data.”</i></p>	

Exhibit #	Type of correspondence	Date	From	To	Summary of content	Commentary
45	Hand written note	6/7	TIO Special Counsel No (1)		<p>This hand written note from the TIO Special Counsel No (1) dated (6/7) appears to coincide with Exhibits 38, 39 and 40 (BCI) and would be July 1995.</p> <p>Alan Smith had requested the TIO provide advice of the mailing address of Bell Canada International. In this note the incorrect address and contact details is provided</p>	<p>Alan Smith had requested the TIO provide advice of the mailing address of Bell Canada International.</p> <p>The address given by Telstra which notes: Bell Canada International 1000 de la Gauchetiere Bureau 1100 Montreal Quebec H3B478 (Fax 0011 1 514 392 2424) is not the address that Telstra and/or Bell Canada International people used during the period they corresponded together.</p> <p>Exhibits 1, 2, 3, 4, 5, 6, 7, and 9-b (BCI) show the BCI offices are in Ottawa Canada, so why was Alan Smith provided with this number?</p> <p>Attempts to use the fax number provided failed. At the very least, this shows that the TIO representative, i.e. TIO Special Counsel No (1 and 2) was not paying much attention to the very real concerns of the CoT cases.</p>
46	Herald Sun article				<p>Article headlined <i>Brave need protection</i></p> <p><i>“PUBLIC servants should receive some “public interest” protection as well as protection for disclosing corruption and illegal behaviour under proposals before the Federal Government.</i></p> <p><i>“Accountability is a fundamental underpinning of democracy,” Senator Faulkner said.”</i></p>	