

**The Hon Malcolm Turnbull,  
Prime Minister of Australia**

**The Hon Barnaby Joyce  
Deputy Prime Minister**

**Mr Dan Tehan, Federal Member for Wannon**

**Ms Sue Laver, Telstra General Counsel**

**Mr John P Mullen, Telstra Board Chair**

**Cape Bridgewater Holiday Camp  
Service Verification Tests (Report)  
Collision, Deception, Misleading and Deceptive Conduct**

**Exhibits 11 to 23-G**

**Alan Smith  
Seal Cove  
1703 Bridgewater Road  
Portland (Victoria) 3305**



# Hunt & Hunt LAWYERS

- Mr. J. D. ...
- Mr. G. ...
- Mr. A. ...
- Mr. L. ...
- Mr. J. ...
- Mr. P. ...
- Mr. R. ...
- Mr. S. ...
- Mr. T. ...
- Mr. U. ...
- Mr. V. ...
- Mr. W. ...
- Mr. X. ...
- Mr. Y. ...
- Mr. Z. ...

12 April 1994

Our Ref: 612

Minter 206  
Your Ref:

BY FACSIMILE: 617 4666

Mr Peter Bartlett  
Messrs Minter Ellison Morris Fletcher  
Solicitors  
40 Market Street  
Melbourne VIC 3000

Dear Peter

## COT MATTERS

On 11 April I met with John Seiak and John Ruddle of Ferrier Hodgson to discuss the impact of the latest draft of the "Fast-Track" Arbitration Procedure on the Resource Unit.

They made the following points:

- (a) in relation to clause 8.1, services will in fact be provided by Ferrier Hodgson Corporate Advisory (Vic) Pty Ltd, not Ferrier Hodgson Chartered Accountants. Either the name should be substituted or the words "Incorporating Ferrier Hodgson Corporate Advisory (Vic) Pty Ltd" should be inserted in the third line after the words "Chartered Accountants";
- (b) also in relation to clause 8.1, technical input will be provided by DMR Inc, not DMR Group Australia Pty Ltd. DMR wishes this substitution to be made;
- (c) the above changes should be reiterated in clauses 25 and 26 as presently drafted;
- (d) further in relation to clauses 25 and 26, both Ferrier Hodgson Corporate Advisory and DMR Inc are concerned about their potential liability. As the clauses presently read, they would be liable to a maximum of \$250,000.00 per claim. This is likely to significantly exceed their professional fees in relation to each claim. Ferrier Hodgson's preference (and also the preference of DMR)

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Facsimile (61-3) 614 1170. G.P.O. Box 18284, Melbourne 3001. BX 292, Melbourne.  
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would be for a total exclusion of liability but, failing that, they would accept a lower cap more commensurate with their anticipated fees;

- (a) In relation to the Confidentiality Agreement appended as Schedule E, Mr Selak and Mr Rindell believe reference should be made to the Administrator in clause 2. They would also prefer a single undertaking to be executed by Ferrer Hodgson Corporate Advisory (and another by DM&I Inc) rather than by the various individuals within the organisation. They would remain vicariously liable for breaches by their employees.

I appreciate that one claimant has already executed the agreement in its current form. The others will no doubt be pressed to do likewise over the next few days. I further appreciate you will be reluctant to introduce additional changes to the draft procedure at this delicate stage of negotiations but it is of course also fundamental that account be taken of the concerns raised by members of the Resources Unit. Perhaps the agreement should be executed in its current form and then agreement sought from the parties to vary the terms to take into account any proposals by Ferrer Hodgson or DM&I which you agree are reasonable.

Could I suggest that you liaise direct with Mr Selak or Mr Rindell about these concerns? Perhaps they could also speak direct to Warwick Smith.

Yours sincerely

  
GORDON W. SMITH

cc W Smith  
J Selak, J Rindell

11/20/94 01:14:28

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A59257

10/13/94 01:24PM

12:26 10/13/94

**MINTER ELLISON MORRIS FLETCHER**

BARRISTERS AND SOLICITORS

40 MARKET STREET  
 MELBOURNE VICTORIA  
 TELEPHONE (03) 617 4617  
 FACSIMILE (03) 617 4666  
 DX 204 MELBOURNE  
 Postal address  
 GPO BOX 790  
 MELBOURNE VIC 3001  
 AUSTRALIA

## FACSIMILE TRANSMISSION

DATE 13 April 1984

TO Ann Garns  
Facsimile number (07) 892 3739FROM Peter Bartlett  
MINTER ELLISON MORRIS FLETCHER MELBOURNE  
Our reference PLS 928549

SUBJECT Cot Claims

**NOTE**

If you do not receive page(s) including this one, please telephone MINTER ELLISON MORRIS FLETCHER  
 (03) 617 4629 as soon as possible.

**IMPORTANT**

The contents of this facsimile (including attachments) may be privileged and confidential. Any unauthorised use of the contents is expressly prohibited. If you have received the document in error, please advise us by telephone (revoke charges) immediately and then shred the document. Thank you.

a/pmxc387

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Mr Paul Rumble  
National Manager-Customer Response Unit  
Telcel Australia  
Level 8  
242 Exhibition Street  
Melbourne Victoria 3000

by being delivered by hand or sent by prepaid mail.

#### Liability of Administrator and Arbitrator

24. Neither the Administrator nor the Arbitrator shall be liable to any party for any act or omission in connection with any arbitration conducted under these Rules save that the Arbitrator (but not the Administrator) shall be liable for any conscious or deliberate wrongdoing on the Arbitrator's own part.
25. The liability of Ferris Hodgson and the partners and employees of Ferris Hodgson for any act or omission in connection with any arbitration conducted under these rules (other than in relation to a breach of their confidentiality obligations) shall be limited to \$250,000 jointly.
26. The liability of DNR Group Australia Pty Ltd and the directors and employees of DNR Group Australia Pty Ltd for any act or omission in connection with any arbitration conducted under these rules (other than in relation to a breach of their confidentiality obligations) shall be limited to \$250,000 jointly.

#### Return of Documents after Arbitration

27. Within 6 weeks of publication of the Arbitrator's award, all documents received under this Procedure by the parties, the Administrator, the Resource Unit and/or the Arbitrator and all copies thereof, shall be returned to the party who lodged such documents.

4/11/2001

898

MINIK ELLIS MARKIS FLETCHER

15:10

13/04/94

12



# Hunt & Hunt LAWYERS

## FACSIMILE TRANSMISSION

Our Ref: GLH  
Matter No: 5122795

Date: 19 April 1994  
To: MR. WILLIAM HUNT  
Fax No: 670 6598  
From: CAROLINE FRIEND  
Subject: TIO ARBITRATION PROCEDURE

Partners  
Edward S Boyce  
James G.F. Harrowell  
Christine A. Galley  
Gordon L. Hughes  
Mark T. Knapman  
Ian S. Craig  
Peter J. Bwin  
Wayne B. Cahill  
Neville C.H. Debnay  
Grant D. Sefton  
Charles Vaevans  
Andrew Logie-Smith  
Consultants  
Kenneth M. Martin  
Richard J. Kellaway  
Associates  
Peter A. Cornish  
Shane C. Hind  
John S. Molnar  
Melissa A. Henderson  
Francis V. Galichio  
Roy Set  
Randal P. Williams

Further to my telephone discussion with Mr. Graham Schorer of today's date, at his request, I attach for your attention a copy of the "Fast Track" Arbitration Procedure of 31st March 1994.

*File*

*Golden re*

*COT Cases*

Yours faithfully,

*Hunt & Hunt*  
HUNT & HUNT

Att.

Melbourne  
Sydney  
Sydney West  
Brisbane  
Canberra  
Newcastle  
Perth  
Adelaide  
Darwin

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# Hunt & Hunt LAWYERS

## FACSIMILE TRANSMISSION

Our Ref: GLK  
Matter No:

Date: 19 April 1994  
To: MR GOLDBERG  
Fax No: 670 8389  
From: CAROLINE FRIEND  
Subject: TIO ARBITRATION

Partners  
Edward S Boyce  
James G.F. Harrowell  
Christine A. Galley  
Gordon L. Hughes  
Mark T. Knapman  
Ian S. Craig  
Peter J. Smith  
Wayne B. Cahill  
Neville G.H. Dobney  
Clare D. Sellen  
Charles Veaven  
Andrew Logie-Smith  
Counselors  
Kenneth M. Martin  
Richard J. Kellway  
Associates  
Peter A. Cornish  
Shane G. Hind  
John S. Mohr  
Melissa A. Henderson  
Francis V. Galichio  
Ray Salt  
Ravial F. Williams

Further to my telephone discussion with Mr. Graham Schorer of todays date, please find attached "Fast Track" Arbitration Procedure as of 31st March 1994 for your attention.

Yours faithfully  
*Hunt & Hunt*  
HUNT & HUNT

Att.

We are transmitting 20 (twenty) pages (including this cover sheet). If you have problems with this transmission call

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13

not strictly liable or has no obligation to pay, due to a statutory immunity covering that period or periods, Telecom Australia should, having regard to all the circumstances relevant to the Claimant's claim, pay an amount in respect of such a period or periods and, if so, what amount.

*When does the liability arise, if not for*

*and*

10.1.2 <sup>may</sup> set off against any amounts found by the Arbitrator to be otherwise owing by Telecom Australia to the Claimants any amounts paid to, rebates granted to, or services carried out for the Claimant by Telecom Australia to date.

*How does it come before Arbitrator*

10.2 In relation to the Claimant's loss, the Arbitrator:

10.2.1 will take into account the Claim and Defence Documents, any Reply and supporting documents, written evidence and submissions made by the parties and, if applicable, any sworn or affirmed oral evidence presented to the Arbitrator by the parties to the arbitration together with any information obtained by the Resource Unit or any advice given to him by the Resource Unit.

10.2.2 will make a finding on reasonable grounds as to the causal link between the alleged service difficulties, problems and faults in the provision to the Claimant of telecommunication services and the losses claimed and, as appropriate, may make reasonable inferences based upon such evidence as is presented by the parties together with any information obtained by



Mr Paul Rumble  
National Manager-Customer Response Unit  
Telecom Australia  
Level 8  
242 Exhibition Street  
Melbourne Victoria 3000

by being delivered by hand or sent by prepaid mail.

#### Liability of Administrator and Arbitrator

24. Neither the Administrator nor the Arbitrator shall be liable to any party for any act or omission in connection with any arbitration conducted under these Rules save that the Arbitrator (but not the Administrator) shall be liable for any conscious or deliberate wrongdoing on the Arbitrator's own part.
25. The liability of Ferrier Hodgson and the partners and employees of Ferrier Hodgson for any act or omission in connection with any arbitration conducted under these rules (other than in relation to a breach of their confidentiality obligations) shall be limited to \$250,000 jointly.
26. The liability of DMR Group Australia Pty Ltd and the directors and employees of DMR Group Australia Pty Ltd for any act or omission in connection with any arbitration conducted under these rules (other than in relation to a breach of their confidentiality obligations) shall be limited to \$250,000 jointly.

#### Return of Documents after Arbitration

27. Within 5 weeks of publication of the Arbitrator's award, all documents received under this Procedure by the parties the Administrator, the Resource Unit and/or the Arbitrator and all copies thereof, shall be returned to the party who lodged such documents.

not strictly liable or has no obligation to pay, due to a statutory immunity covering that period or periods, Telecom Australia should, having regard to all the circumstances relevant to the Claimant's claim, pay an amount in respect of such a period or periods and, if so, what amount.

10.1.2 set off against any amounts found by the Arbitrator to be otherwise owing by Telecom Australia to the Claimants any amounts paid to, rebates granted to, or services carried out for the Claimant by Telecom Australia to date.

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10.2.1 will take into account the Claim and Defence Documents, any Reply and supporting documents, written evidence and submissions made by the parties and, if applicable, any sworn or affirmed oral evidence presented to the Arbitrator by the parties to the arbitration together with any information obtained by the Resource Unit or any advice given to him by the Resource Unit.

10.2.2 will make a finding on reasonable grounds as to the causal link between the alleged service difficulties, problems and faults in the provision to the Claimant of telecommunication services and the losses claimed and, as appropriate, may make reasonable inferences based upon such evidence as is presented by the parties together with any information obtained by

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10.1.2 set off against any amounts found by the Arbitrator to be otherwise owing by Telecom Australia to the Claimants any amounts paid to, rebates granted to, or services carried out for the Claimant by Telecom Australia to date.

10.2 In relation to the Claimant's loss, the Arbitrator:

10.2.1 will take into account the Claim and Defence Documents, any Reply and supporting documents, written evidence and submissions made by the parties and, if applicable, any sworn or affirmed oral evidence presented to the Arbitrator by the parties to the arbitration together with any information obtained by the Resource Unit or any advice given to him by the Resource Unit.

10.2.2 will make a finding on reasonable grounds as to the causal link between the alleged service difficulties, problems and faults in the provision to the Claimant of telecommunication services and the losses claimed and, as appropriate, may make reasonable inferences based upon such evidence as is presented by the parties together with any information obtained by

*Handwritten signatures and initials*  
14

Mr Paul Rumble  
National Manager-Customer Response Unit  
Telecom Australia  
Level 8  
242 Exhibition Street  
Melbourne Victoria 3000

by being delivered by hand or sent by prepaid mail.

#### Liability of Administrator and Arbitrator

24. Neither the Administrator, the Arbitrator, the Special Counsel, a partner or employee of the legal firm of which the Special Counsel is a partner, a member of the Resources Unit, Ferrier Hodgson or a partner or employee of Ferrier Hodgson, DMR Group Australia Pty. Ltd. or a Director or employee of DMR Group Australia Pty. Ltd. shall be liable to any party for an act or omission in connection with any arbitration conducted under these Rules or involved in the preparation of these Rules save that the Arbitrator (but not the Administrator) shall be liable for any conscious or deliberate wrongdoing on the Arbitrator's own part.

#### Return of Documents after Arbitration

25. Within 6 weeks of publication of the Arbitrator's award, all documents received under this Procedure by the parties the Administrator, the Resource Unit and/or the Arbitrator and all copies thereof, shall be returned to the party who lodged such documents.

#### Conflict of Rules

26. In the event of any inconsistency between these rules and the provisions of the Act, these rules shall prevail to the extent of that inconsistency.

*Oselle*  
*Streets*  
**14**

# COPY GOLDEN

Transport Agency

A Division of G.M. (MELBOURNE) HOLDINGS PTY. LTD. A.C.N. 088 808 046

**IMPORTANT: WE ARE NOT COMMON CARRIERS.** The Carrier directs your attention to its trading **TERMS AND CONDITIONS OF CONTRACT.** It is in your interests to read them to avoid any later confusion.

To: Dr. Gordon Hughes  
Company: The Arbitrator for  
Telecom / COT Cases  
"FAST-TRACK" arbitration procedure  
incorporating the FAST-TRACK  
SETTLEMENT PROPOSAL

Date: 25 May 1994  
Fax No: 03 614.8730

From: Graham Schorer  
Total Pages (Incl. Header) 2

MAILED: YES ( X ) NO ( )

Dear Dr. Hughes,

Due to circumstances and events experienced beyond the direct and/or indirect control of Graham Schorer plus other related claimants, companies etc., I am formally applying for an extension of time on behalf of Graham Schorer plus other related claimants, companies etc., pursuant to Clause 7.1 in the "Fast-Track" arbitration procedure to enable Graham Schorer plus other related claimants, companies etc. to finalise their interim claim for losses due to telephone service difficulties, problems and faults experienced.

In this letter henceforth, please accept that all that is stated relates to and includes both Graham Schorer and the other related claimants and companies connected with him.

It is respectfully requested that an extension of time to submit the Interim Statement of Claim be granted to at least 15 June next.

The reason for the request are as follows:-

1. A substantial burglary in Golden's premises on the 4 March, 1994 and the theft of vital equipment and records.
2. The inability of suppliers to replace the equipment until 17 April 1994.
3. The consequent difficulties in conducting any business accentuated by external auditors commencing part of their annual audit from 9 May last.
4. The requirement commencing from 2 May, 1994 to devote the entire staff as fully as possible to maintain a substantial part of its business with Westpac Bank and add A.N.Z.'s business. Competitive quotations had been called for by the A.N.Z. Bank.

Should Golden's quote be considered to be of great merit, placing Golden on the A.N.Z short list of selection.

Golden will be required to become immediately immersed in an extensive exercise requiring long hours to finalise a massive transport logistic exercise, which will involve Golden's current customer Westpac and the A.N.Z. to determine what additional savings can be enjoyed by A.N.Z. (and Westpac) as a result of Golden being able to provide to both A.N.Z. and Westpac shared services where appropriate without loss of service standards.

Since the initial indicators of savings to be identified in engaging in such a potential time and resource consuming logistic exercise to confirm the belief of a minimum of 15% up to 20 - 25% savings to both parties, where a future need may arise to substantiate savings to be gained of this magnitude on a

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potential contract exceeding \$1,000,000.00 just may be the deciding factor on who will be finally selected. Transport Agency

Should such a major opportunity present itself to Golden in the near future where the time and resources of Golden have to be dedicated to meet this commitment, interferes or prevents Graham Schorer and other related claimants, companies etc., from being able to complete their interim claims for losses due to telephone service difficulties, problems and faults,

Graham Schorer will immediately notify the Arbitrator in writing to seek a further extension.

Being engaged in this extensive exercise to date, required long hours to finalise such a massive transport quotation to the A.N.Z. Bank have seriously compromised my ability to produce the interim Statement of Claim up to this point.

5. The inability to commence using outside resources to assist in preparation of the Interim Statement of Claim etc. until such time as they are in receipt of new confidentiality clauses.

The equipment stolen on 4 March comprised:-

- (a) One of two word processors with its laser printer and back up disks containing Golden's sales quotas, customer agreements, facsimiles and all of the correspondence facsimiles and most of the documentation relating to telephone service difficulties, problems and faults in relating to our present claim.

*(Another processor with its back up disks which contained no information relating to the telephone service difficulties was not interfered with.)*

- (b) The facsimile machine, micro film and reading equipment, computer modems.

To retain insurance cover, and make good the damage caused by the burglary, the entrance door had to be replaced, and steel surrounds provided to repair structural damage to the buildings. As well as other repairs a new automatic alarm system also had to be procured and installed on 20 May, 1994.

The burglary, the loss of equipment, the time taken to replace it and the time taken to re-create files, reports, correspondence etc. *(with significant amounts of information nevertheless being permanently lost)* have had incalculable adverse effect on efficiency and the proper conduct of business generally.

The requirements to, maintain contact with customers, to maintain and gain new additional professional principle carriers.

If any further information or explanation is required to support this application, would you please kindly contact me as soon as possible.

Yours sincerely,



Graham Schorer

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Voice: (03) 287 7099 Fax: (03) 287 7001

493-495 Queensberry Street, NORTH MELBOURNE VIC. 3051



**AUSTEL**

AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

*Handwritten notes:*  
27 10 1994  
cc R. Laiton  
for response

10 June 1994

Mr S Black  
Group General Manager  
Customer Affairs  
TELECOM.

*Handwritten notes:*  
Mr S. Black  
Cliff Matheson  
at present state of  
Devlin Bridge case.

Facsimile No: (03) 832 3241

Dear Mr Black

**GOT CASES**

AUSTEL is continuing to receive complaints as to the quality of service from a number of the GOT Cases

- Mr [redacted] at Cape Bridgewater continues to express concern about his ability to receive and send facsimiles
- Mr Schorer at North Melbourne continues to claim that customers are reporting an inability to make a successful phone call to his business
- Mr [redacted] is likewise claiming that he is not receiving calls on his business number and that he is at times still being subjected to drop out; he also claims problems in receiving calls via the mobile service as well as false busy. Additionally, he is still receiving calls meant for other customers.

In these circumstances, and given your apparent advice to Mr Schorer that his service is operating satisfactorily, AUSTEL considers there is a need for objective data as soon as possible and accordingly, if it has not commenced, you are asked to apply the service verification tests to these services immediately. AUSTEL's Chief Operating Officer has confirmed that the detail negotiated with Mr [redacted] is accepted.

Please comment on the service claims made above.

Your comment on the further points raised by Mr [redacted] is also requested

- is a pre-fab replacement or substitute exchange being installed at Devlin's Bridge?
- if so please provide detail and rationale and date of

A32874

16A

1 QUEENS ROAD, MELBOURNE, VICTORIA  
POSTAL P.O. BOX 7443, ST KILDA RD, MELBOURNE, VICTORIA, 3004  
TELEPHONE: (03) 828 7300

commissioning

• have complaints been received from customers at Glenburn that their last account is 2 or 3 times the normal level and if so what is the cause?

Finally, in the course of the COT Inquiry Telecom undertook to standardise a form of words to be used in advising customers about liability. The attached letter dated 31 May 1994 from Sheridan Bailey does not use the wording advised to AUSTEL and remains a misleading and incomplete statement. Your comment is sought as well as an assurance as to how staff are being made aware of Telecom's obligation to cease this practice.

Yours sincerely



John MacMahon  
General Manager  
Consumer Affairs

Encl:

**16A**  
A32875



**Recommendation 25:** Telecom commit itself to rectify the majority of difficult network faults which reduce the level of service below a level determined by AUSTEL within three to six months and all within a period of twelve months.

**Telecom Update - July 1994 Quarter**

Telecom's fault rectification standards are outlined in Section 3.6 of the Public Switched Telephone Service (PSTS) Tariff. These standards state that "Telecom will repair telephone services by the date agreed with the customer. Telecom aims to repair services in accordance with the following standard:

- (i) In urban areas within one (1) working day of being notified of a fault.
- (ii) In rural areas within two (2) working days of being notified of a fault.
- (iii) In remote areas within three (3) working days of being notified of a fault."

These rectification requirements are meant for all customers, including DNF customers.

Telecom has also scheduled the DNF customers for Service Verification Tests to objectively confirm that their services meet an appropriate performance standard.

Telecom's comment on an appropriate standard of service for an individual telephone service are included under Recommendation 26.

**AUSTEL Comment**

The major issue in relation to the PSTS tariff and Difficult Network Faults (DNF) is the means of determining whether the fault rectification objectives have been realised for DNF customers. (This issue shares many similarities with Recommendation 2). In the near future AUSTEL will be discussing with Telecom the practicality of instituting a reporting regime which reports against the achievement of these PSTS standards specifically for DNF customers.

AUSTEL notes that DNF customers have characteristically reported recurring faults over extended periods of time.

Clarification will be required of the definition of "service repairs" when a fault recurs after initially having been determined as "repaired". This issue will need to be addressed in the context of this recommendation.

Issues to do with the Service Verification test are discussed under Recommendation 41.

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**Recommendation 26:** Telecom devise plans with time-frames for resolving difficult network faults which reduce the level of service below a level determined by AUSTEL and inform its customers accordingly (cf: Coopers & Lybrand Recommendation 24, Bell Canada International's Rotary Hunting Group Study Recommendation 8.2).

**Telecom Update - July 1994 Quarter**

A priority list for verification tests has been prepared based on a number of criteria. It was not Telecom's understanding that the 6/12 rectification period for existing DNF customers commenced on 30 May 1995. Arrangements are currently in place for the existing DNF customer's services to be subjected to Service Verification Testing before 30 May 1995 in accordance with the requirements of Recommendation 25.

In addition, arbitration procedures have been put in place and the DNF customers referred to Telecom by Austel have been offered the opportunity to lodge a claim under these procedures.

I note that the Austel correspondence received on 18 May 1994 refers to a "minimum standard envisaged for an individual service is 95% successful completion of calls for STD services and 97% for all local calls." This proposed standard raises a number of issues for Telecom which need to be resolved with Austel. The question of individual service standards has been a subject of a comprehensive review of a working party involving Austel and the industry, and is currently being dealt with in that forum. Moreover, the issue of individual service standards raises complex issues, including the issue of different performance standards for different equipment types which reflect original design parameters for that equipment. As indicated in the Austel briefing of 5 July 1994, Telecom proposes to meet further with Austel with the aim of co-ordinating the various Austel initiatives on individual service measures and standards, establishing the relationship between the Austel requirements for definition of individual service performance measures and finalising measures which are acceptable to all parties.

Each of the telephone services of the DNF customers will also be scheduled for Service Verification Testing to objectively establish their current level of service.

**AUSTEL Comment**

Several issues pertaining to this recommendation require further discussion and agreement. AUSTEL will require Telecom to provide detail on the "priority list" for Service Verification Tests once these issues have been finalised.

An issue relating to Telecom's requirement to rectify all Difficult Network Faults (DNF) within 12 months and the role of the Service Verification Tests (SVT) in the determination of the adequacy of a DNF service is that the SVT clearly have to be conducted well before 30 May 1995 to meet the requirement of recommendation 25. For example, if the SVT indicate an unacceptable level of service then a considerable amount of time may be required to rectify the service in question, particularly if major replacement of exchange equipment is required to bring the service to the accepted standard.



11 July 1994

COMMERCIAL AND CONSUMER  
CUSTOMER AFFAIRS37242 EXHIBITION STREET  
MELBOURNE  
VICTORIA 3000  
AustraliaTelephone (03) 632 771  
Facsimile (03) 632 321

**F A X E D**  
...1..7...1..94

Mr Warwick Smith  
Telecommunications Industry Ombudsman

Facsimile No. 277 8797

Dear Mr Smith

The purpose of this letter is to confirm our discussion of 7 July 1994 at which Telecom outlined a proposal to provide confidential information to the arbitrator subject to the confidentiality provisions of the Rules of Arbitration governing the claims of the four COT claimants.

As discussed, it is proposed that Telecom will provide to the arbitrator a series of confidential reports which the arbitrator may then make available to the four COT claimants subject to the confidentiality provisions of the Rules of Arbitration. It is understood that, if the arbitrator makes this information available to the COT claimants, they will be required to keep the information confidential and return all copies of such documents and material to Telecom at the end of the arbitration.

Telecom will also make available to the arbitrator a summarized list of information which is available, some of which may be relevant to the arbitration. This information will be available for the resource unit to peruse. If the resource unit forms the view that this information should be provided to the arbitrator, then Telecom would accede to this request. It is recognized that this information may then be made available to the four COT claimants, subject to the confidentiality provisions of the Rules of Arbitration.

Yours faithfully

  
Steve Black  
GROUP GENERAL MANAGER  
CUSTOMER AFFAIRS

M3427E

17A

**PART II—APPOINTMENT OF ARBITRATORS AND  
UMPIRES**

**6. *Presumption of single arbitrator***

An arbitration agreement shall be taken to provide for the appointment of a single arbitrator unless—

- (a) the agreement otherwise provides; or
- (b) the parties otherwise agree in writing.

s. 6  
substituted by  
No. 15/1985  
s. 7.

**7. *Presumption as to joint appointment of arbitrator***

Unless otherwise agreed in writing by the parties to the arbitration agreement, an arbitrator who is to be appointed for the purposes of an arbitration to be conducted under an arbitration agreement shall be jointly appointed by the parties to the agreement.

**8. *Default in the exercise of power to appoint an arbitrator***

- (1) Where a person who has a power to appoint an arbitrator defaults in the exercise of that power, a party to the relevant arbitration agreement may, by notice in writing—
  - (a) require the person in default to exercise the power within such period (not being a period of less than seven days after service of the notice) as may be specified in the notice; and
  - (b) propose that in default of that person so doing—
    - (i) a person named in the notice ("a default nominee") should be appointed to the office in respect of which the power is exercisable; or
    - (ii) specified arbitrators (being the arbitrators who have prior to the date of the notice been appointed in relation to the arbitration) should be the sole arbitrators in relation to the arbitration.
- (2) A notice under sub-section (1) (or, where appropriate, a copy of the notice) must be served upon—

98

95/0614 31

**Telecom**  
 AUSTRALIA

 Commercial & Consumer  
 Customer Affairs 128

 Locked Bag 4960  
 Melbourne Vic 3100

 Telephone (03) 632 7700  
 Facsimile (03) 632 3241


11 January, 1994

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

Dear Warwick,

I have attached for your information a copy of a letter sent to AUSTEL providing the results of two additional studies undertaken by Telecom to test the Rotary Hunting Groups and to provide supplementary inter-exchange network tests and the details of the tests. The additional testing was undertaken to provide further information on the reliability of the telecommunications services provided to those customers complaining of difficult network faults.

As you will see from the attached letter, the documents are rated "Commercial in Confidence" and are provided for the information of the TIO and not for release or disclosure to third parties without the permission of Telecom Australia. I would ask that this rating of the documents be respected.

It is anticipated that the release of these documents to the four customers currently proposed for the fast track arbitration process will be agreed at an appropriate time in consultation with yourself. The timing of the release can be finalised once the assessor has been appointed and the procedures for the arbitration have been agreed.

I also wish to confirm to you my previous advice regarding arrangements made with AUSTEL for the release of documents obtained from Telecom to the four customers currently proposed for the Fast Track arbitration process.

It was agreed at a meeting between Mr. Graeme Ward and Mr. Steve Black of Telecom and Dr Bob Horton and Mr Neil Tuckwell of AUSTEL on 7 January 1994 that:

- Information obtained from Telecom, in the course of AUSTEL's regulatory functions, and relevant to any parties involved in a formal arbitration process with Telecom under the control of the Telecommunications Industry Ombudsman (TIO) will only be released after consultation with the TIO and Telecom.
- The AUSTEL draft report will be expedited to ensure that it is available at an early stage of the arbitration process.
- The AUSTEL draft report will be released to the parties involved in the fast track arbitration process for comment in accordance with a process agreed with the TIO, and only after each party has signed a formal document committing to keeping the contents of the report confidential and giving an undertaking not to comment either privately or publicly on the report until after it has been released publicly by AUSTEL.

Yours sincerely,

 Steve Black  
 GROUP GENERAL MANAGER - CUSTOMER AFFAIRS

17c



ATTACH 4

Paul J Rims  
 Group Marketing Director  
 Sales and Administration  
 242 Exhibition Street  
 Melbourne Vic 3000 Australia  
 Telephone (03) 204 9981  
 Sydney (02) 204 9981  
 Facsimile (03) 204 9410

11 January, 1994

Dr R. Horton  
 Acting Chairman  
 AUSTEL  
 PO Box 7443 St Kilda Road  
 Melbourne Vic 3004

Dear Dr Horton

## VOICE MONITORING

As you would be aware, there has been substantial media comment on Telecom's action in recording the telephone calls on the services of Mrs Gillan and Mrs Gerns in the context of a detailed fact investigation. Information was received at about 4.30 pm on 5 January 1994 from the Australian Financial Review that the AFR was in possession of documents from AUSTEL which advised that this monitoring had taken place and these documents formed the basis of the AFR's question and subsequent public comment on the matter.

I have now received a letter from Mr MacMahon (copy attached) confirming that he advised both Mrs Gerns and Mrs Gillan that Telecom had undertaken recording on their services. These letters were based on information provided by Telecom on the 24th December 1993.

Telecom's primary concern is that the information was released to a party that is currently involved with a dispute with Telecom, and who has entered into a formal arbitration process to resolve that dispute. The action taken has inflamed the dispute, aggravated the parties, led the parties to actively seek to raise the dispute to public comment and has put at risk the arbitration process.

The release of the information in these circumstances raises issues of principle which need to be resolved. Under the circumstances it was inappropriate for this information to be released in this way. Once a quasi judicial process such as the agreed arbitration

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process has been entered into, information which may be material to that process should only be released through that process. As AUSTEL participated with Telecom in the establishment of that process it is clear that AUSTEL was fully aware of the existence of the process and the formal agreement between the parties.

It is Telecom's view that arrangements should be put in place to ensure that information gained from Telecom in the course of AUSTEL's regulatory functions is only released in an appropriate way. To this end I wish to confirm the agreement reached between [redacted] and [redacted] in a meeting with you and Mr Neil Tuckwell today that:

- Information obtained from Telecom, in the course of AUSTEL's regulatory functions, and relevant to any parties involved in a formal arbitration process with Telecom under the control of the Telecommunications Industry Ombudsman (TIO) will only be released after consultation with the TIO and Telecom.
- The AUSTEL draft report will be expedited to ensure that it is available at an early stage of the arbitration process.
- The AUSTEL draft report will be released to the parties involved in the fast track arbitration process for comment in accordance with a process agreed with the TIO, and only after each party has signed a formal document committing to keeping the contents of the report confidential and giving an undertaking not to comment either privately or publicly on the report until after it has been released publicly by AUSTEL.

Yours sincerely

**GROUP MANAGING DIRECTOR  
FINANCE & ADMINISTRATION**

17c



Telecommunications  
Industry  
Ombudsman

Warwick L Smith LLB  
Ombudsman

**Ms Fiona Hills**  
Manager, Serious Disputes  
Commercial and Consumer Customer Affairs  
Telecom  
Locked Bag 4960  
MELBOURNE VIC 3100

Dear Fiona

I am enclosing a complaint received from Mr A Smith, proprietor of the Cape Bridgewater Holiday Camp. Mr Smith believes there is some fault(s) with his service which has resulted in callers reporting to him they have had difficulty in contacting him on his service number. He has also cited an example where facsimile transmissions have been sent but not apparently received by the recipient even though his facsimile machine report shows a successful transmission.

I would be grateful if you would investigate his complaint under the agreed complaint handling procedures and provide me with a prompt response on your findings.

Yours sincerely

**Grant Campbell**  
Manager, Enquiries and Complaints

gs0046:cc

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M34363

"... providing independent, just, informal, speedy resolution of complaints."



*Faxed  
details to  
V.i./Tas Regan*



Telecommunications  
Industry  
Ombudsman

Warwick L. Smith LLB  
Ombudsman

February 9, 1994

Ms. Fiona Hills  
Manager, Serious Disputes  
Commercial and Consumer Customer Affairs  
Telecom  
Locked Bag 4960  
MELBOURNE VIC. 3100

Dear Fiona,

*Re: Alan Smith  
Cape Bridgewater Holiday Camp  
Loss of Fax Capacity*

I spoke with Alan Smith on the 9th instant following our discussion on the 8th instant.

He has agreed that this is a new matter and whilst it may be indicating some ongoing problems, it is not a matter that relates directly to the preparation of his material to be presented to the Assessor.

I understand that the facts of this matter relate directly to loss of faxing capacity. Grant Campbell holds the file in this office.

Yours sincerely,

  
Warwick L. Smith  
Ombudsman

M34361

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Per:

*"... providing independent, fair, informal, speedy resolution of complaints."*

10/1/95



Doc "R"

Telecommunications  
Industry  
Ombudsman

John Pinnock  
Ombudsman

July 10, 1995

Our Ref: D/95/17

Mr. Grant Campbell  
Case Officer  
Customer Response Unit  
Office of Customer Affairs  
Telecom Australia  
Level 2/242 Exhibition Street  
MELBOURNE VIC. 3000

Dear Grant,

Re: Ken Ivory Industries - Dispute

Thank you for your attendance on Thursday 6 July with Stephen Meade at the TIO. I write to confirm the requirement of the Ombudsman that the questions posed in my letter of 30 June, 1995 be replied to in writing prior to a briefing by your 1800 expert.

I am sorry if this involves you with additional work that may perhaps otherwise not have been necessary, but I am sure that you will appreciate the need for us to be as fully briefed as possible.

Yours sincerely,

Wally Rothwell  
Deputy Ombudsman

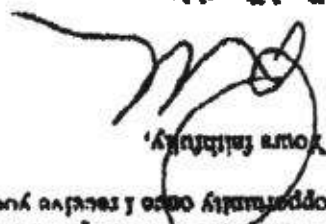
17F

*"... providing independent, just, informal, speedy resolution of complaints."*

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6412794

Paul Kumble  
General Manager, Customer Response Unit

Your faithfully,  


I await your further advice as to which documentation you require and I have organised for the material to be processed so that it can be made available to you at the earliest opportunity once I receive your advice.

With respect to my advice to you that no analysis has been undertaken by Telecom on your System ID data, a sample of which was provided for your assessment at the meeting on Thursday, 7 July, I wish to advise that I have taken steps today to have developed an Interceptive Manual which will hopefully assist you to undertake your own analysis of the data. At this stage, I cannot commit to a definite timetable within which the Manual will be available, but I will advise you in due course.

I confirm my understanding that you wished to make an informed decision as to which documents were required and that you might take a few days in order to make an informed decision. I would appreciate your response at your earliest convenience so that the recent progress that we have achieved towards resolving your outstanding concerns can be maintained.

I refer to our telephone discussion of last night wherein I indicated that I regarded the issue being on you at this point to advise Telecom which of the documents you required from the schedules that we provided to you at the meeting that you attended last Thursday, 7 July 1994.

Dear Mr Schorer

By Facsimile: 287 7001

Mr Graham Schorer  
Golden

12 July, 1994

Customer Response Unit  
General Manager  
322 Eastman Street  
Melbourne 3000, Victoria  
Tel: 03 694 8738  
Fax: 03 694 8441



**FAXED**  
91/144

**GOLDEN**  
Transport Agency

13-56

A Division of G.M. (MELBOURNE) HOLDINGS PTY. LTD. A.C.N. 006 909 046

**IMPORTANT: WE ARE NOT COMMON CARRIERS.** The Carrier directs your attention to its trading **TERMS AND CONDITIONS OF CONTRACT.** It is in your interests to read them to avoid any later confusion.

|          |                                                                            |                            |               |
|----------|----------------------------------------------------------------------------|----------------------------|---------------|
| To:      | Dr Gordon Hughes<br>Arbitrator for the Fast Track Arbitration<br>Procedure | Date:                      | 9 August 1994 |
| Company: | Hunt & Hunt                                                                | Our Ref:                   | 1123          |
| From:    | Mr Graham Schorer                                                          | Fax No:                    |               |
|          |                                                                            | Total Pages (incl. Header) | 2             |

MAILED: YES ( ) NO ( )

Dear Dr Hughes

RE: FAST TRACK ARBITRATION PROCEDURE

I am writing to you to confirm what progress has been made to date regarding documents being received under the three different F.O.I. applications.

On 14 April 1994 two boxes of documents, not processed in accordance with the procedures of the F.O.I. act, were delivered to my premises, outside the F.O.I. Act. Many of the documents were illegible and have not been resupplied in accordance with our official request and is part of the many complaints lodged with the Commonwealth Ombudsman's Office. These two boxes contained approximately 2200 documents, over 55% of which were raw data (ie over one box).

On 15 July 1994 five boxes of documents were delivered to my premises, outside the F.O.I. Act. These five boxes consisted of one box of documents and four of raw data.

On 29 July 1994 eight boxes of documents were delivered to my premises, under the F.O.I. Act. These eight boxes consisted of two boxes of Schorer's documents, two boxes of raw data, four boxes contained documents in relation to other C.o.T. Case Australia members F.O.I. applications.

A meeting between Telecom and myself on Wednesday 3 August 1994 was convened and agreed to on the basis that Telecom were prepared to discuss all of the unresolved issues regarding the three F.O.I. Applications.

Telecom agreed to such a meeting under false pretences, as they refused to discuss the agreed to unsupplied documents and other unresolved issues in relation to the three F.O.I. Applications at the meeting. These three F.O.I. Applications being:

- Graham Schorer, other related entities, companies, etc F.O.I. Application lodged with Telecom on 23 November 1993.
- C.o.T. Cases Australia F.O.I. Application lodged with Telecom on 22 February 1994.
- Graham Schorer (the person) F.O.I. Application lodged with Telecom on 21 April 1994.

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Voice: (03) 287 7099

Page No. 1

Fax: (03) 287 7001


493-495 Queensberry Street, NORTH MELBOURNE, VIC 3051



Of the thirty two thousand (32,000) documents received (excluding the raw data and other C.o.T. Case Australia Members applications - which is the majority) documents relating to the Graham Schorer and Golden Application consist of many duplicate copies and does not represent all of the documents applied for under the two F.O.I. Applications, being 24 November 1993 and 21 April 1994.

I will advise the Arbitrator in writing what action I intend to take to ensure that I am correctly supplied with the required documents that I have requested under the F.O.I. Applications, as the documents supplied do not contain all of the fault reports, investigations, and early monitoring data referred to in some of the existing documents, therefore preventing me and my advisors from commencing compiling my submission and claim substantiated with supporting documentation.

Yours respectfully



Graham Schorer

**FAXED**  
9/1/94  
13:56

**GOLDEN**  
Transport Agency

A Division of G.M. (MELBOURNE) HOLDINGS PTY. LTD. A.C.N. 008 808 048

**IMPORTANT: WE ARE NOT COMMON CARRIERS. The Carrier directs your attention to its trading TERMS AND CONDITIONS OF CONTRACT. It is in your interests to read them to avoid any later confusion.**

|                 |                                                                            |                                   |               |
|-----------------|----------------------------------------------------------------------------|-----------------------------------|---------------|
| <b>To:</b>      | Dr Gordon Hughes<br>Arbitrator for the Fast Track Arbitration<br>Procedure | <b>Date:</b>                      | 9 August 1994 |
| <b>Company:</b> | Hunt & Hunt                                                                | <b>Our Ref:</b>                   | 1124          |
| <b>From:</b>    | Mr Graham Schorer                                                          | <b>Fax No:</b>                    |               |
|                 |                                                                            | <b>Total Pages (incl. Header)</b> | 10            |

MAILED: YES ( ) NO ( )

Dear Dr Hughes

RE: FAST TRACK ARBITRATION PROCEDURE

I have enclosed a facsimile from Telecom received at my premises on 26 July 1994 at 11.41 pm.

This facsimile states that Telecom has forwarded all of the documents that fall within my F.O.I. Applications to the T.I.O. for onforwarding to the Arbitrator.

Would the Arbitrator please advise in writing as to what date the documents were delivered to the Arbitrator's premises. Also please advise myself as to what arrangements that I need to comply with for the viewing of the same documents.

It should be noted that in Point 5, Paragraph 3, Page 2 of the above facsimile from Telecom, where Telecom unconditionally informed myself that, "The FOI exemptions which have been applied to the documents will not apply to any of the documents provided under the rules of the arbitration." which was accepted by myself in correspondence dated 29 July 1994 (Our Ref: 1104 - page 4, referring to point 5, Paragraph 3). (A copy of this correspondence referred to is enclosed with this facsimile.)

Yours respectfully



Graham Schorer

20

Voice: (03) 287 7099

Page No. 1

Fax: (03) 287 7001

493-495 Queensberry Street, NORTH MELBOURNE VIC 3051

See Response  
15/8/94 ✓ AK.



# Hunt & Hunt LAWYERS

**COPY**

**Partners**  
 Edward S. Bouce  
 James G.F. Harrower  
 Christine A. Gann  
 Gordon L. Hughes  
 Mark T. Inapman  
 Ian S. Craig  
 Peter J. Ewin  
 Wayne B. Cahill  
 Neville G.H. Debnis  
 Grant D. Setton  
 Charles Veevers  
 Andrew Lope-Smith  
 William P. O'Shea

**Consultants**  
 Kenneth M. Martin  
 Richard I. Kellaway

**Associates**  
 Shane G. Hird  
 John S. Molnar  
 Melissa A. Henderson  
 Francis V. Galichio  
 Roy Seil

11 August 1994

Our Ref: GLH

Matter No:

Your Ref:

BY FAX: 287 7001

Mr Graham Schorer  
Golden Messenger  
493-495 Queensberry Street  
North Melbourne VIC 3051

Dear Sir

## ARBITRATION - TELECOM

I acknowledge receipt of your facsimile dated 9 August 1994.

No documents of the nature which you describe have been delivered to me.

As to the progress of this arbitration in the immediate future, you will recall I originally elected to put the matter in abeyance until 27 July 1994. Since that date I have been aware the parties have continued discussions regarding your FOI applications.

You indicated to me in our telephone discussion of 5 August 1994, and you foreshadow in your second facsimile dated 9 August 1994, that in your opinion these discussions are not progressing satisfactorily and you are considering your options as to an appropriate course of action.

I do not wish this claim to remain in abeyance indefinitely. Whilst it is important that you have the opportunity to access all relevant material, it is incumbent upon you, in accordance with the spirit of the arbitration process, to promptly analyse collate and process all such material as it becomes available.

I do not wish to become directly (or even indirectly) involved in your FOI application. At the same time I cannot ignore the fact that your FOI application is relevant, or may be relevant, to the proper submission of your claim. There may nevertheless come a point in time when you will need to convince me as to the relevance of any outstanding FOI request if I am to continue to extend the deadline for the submission of your Claim Documentation.

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sydney

sydney west

brisbane

canberra

newcastle

perth

adelaide

darwin

11300949\_GLH/RS

Level 21, 459 Collins Street, Melbourne 3000, Australia. Telephone: (61-3) 614 8711.

Facsimile: (61-3) 614 8730. G.P.O. Box 1533N, Melbourne 3001. DX 292, Melbourne.

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I intend reviewing this matter further on 1 September next and I would appreciate a report from both you and Telecom at that time concerning the progress of your FOI applications and any other matters which the parties need to resolve between themselves as a precursor to the submission of your claim under the arbitration process.

Yours sincerely

**GORDON HUGHES**

CC P Rumble, W Smith, P Bartlett, J Rundell



# Hunt & Hunt LAWYERS

# COPY

Partners  
 Edward S. Breen  
 John C.F. Murray  
 Christine A. Cohen  
 Gordon L. Hughes  
 Alan T. Anagnostis  
 Ian S. Craig  
 Peter J. Egan  
 Wayne B. Cahill  
 Neville C.M. Dobson  
 Grant D. Sisson  
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 William P. O'Shea

Consultants  
 Kenneth M. Martin  
 Richard I. Kellaway

Associates  
 Shane G. Hird  
 John S. Molnar  
 Melissa A. Henderson  
 Francis V. Galichio  
 Roy Sze

7 September 1994

Our Ref: GLH

Matter No:

Mr Graham Schorer  
 Golden Messenger  
 493-495 Queensberry Street  
 North Melbourne VIC 3051

Dear Mr Schorer

## TELECOM - ARBITRATION

I refer to our telephone discussion today in which you indicated you did not believe your FOI application could progress until the Commonwealth Ombudsman delivers a report regarding the matter.

It was never my intention that the submission of your claim be deferred indefinitely pending completion of your FOI claim. I have sought to avoid the costs and inefficiencies involved in a substantial amendment to your claim in the event that a significant amount of material becomes available after the claim is formally submitted. It has been my preference, therefore, to provide you with a reasonable opportunity to complete your FOI claim so that all relevant material can be submitted at the one time.

As it is becoming clear that your FOI claim is unlikely to be resolved to your satisfaction in the short term, I am now inclined to the view that the integrity of the arbitration procedure would be best preserved if I require you to formally submit your claim on the basis of material presently available to you. Further material may subsequently become available to you, whether through discovery or by some other means, which might justify an amendment. Although this would necessitate delays at that point, I believe it would be preferable to the present impasse which is serving the interests of neither party.

I propose reviewing this matter on 1 October 1994. Unless I can be convinced on that date that the full and final resolution of your FOI claim is imminent, I will require you to complete the submission of your claim on the basis of material presently at hand within a time frame to be stipulated.

Yours sincerely

**GORDON HUGHES**

cc P Rumble, W Smith, P Bartlett, J Rundell

11317055\_GLH/KS

Level 21, 459 Collins Street, Melbourne 3000, Australia. Telephone: (61-3) 614 8711.

Facsimile: (61-3) 614 8730. G.P.O. Box 1533N, Melbourne 3001. DX 252, Melbourne.

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# 22A

|           |                                                                                        |                                       |         |
|-----------|----------------------------------------------------------------------------------------|---------------------------------------|---------|
| FAX FROM: | ALAN SMITH<br>C. O. T.                                                                 | DATE:                                 | 18.9.94 |
| FAX NO:   | 056 267 230                                                                            |                                       |         |
| PHONE NO: | 006 816 522                                                                            |                                       |         |
|           |                                                                                        | NUMBER OF PAGES (including this page) |         |
| FAX TO:   | MR JOHN WYNACK<br>INVESTIGATING OFFICER<br>COMMONWEALTH OMBUDSMAN'S OFFICE<br>CANBERRA |                                       |         |

Dear Mr Wynack,

Telecom have again turned around a statement to benefit their charter, this time it is the statement regarding supply of the Bell Canada Testing Raw Data associated with testing at Cape Bridgewater to the Arbitrator, Dr. Gordon Hughes.

I originally requested this information under my F.O.I. application, 9 months ago. It is appalling for a company the size of Telecom to muster such thuggery against a small business person such as myself.

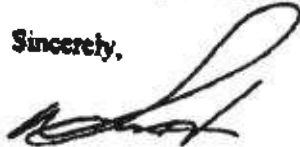
I have faxed to you a copy of a letter from Paul Rumble, Telecom Customer Response Unit. You will note that this raw data is discussed in the last two paragraphs of this letter. Mr. Rumble has quoted that Telecom has not yet been directed to supply any Bell Canada Raw Data. This shows that any information Telecom holds on this testing will only be supplied under the Arbitration Procedure.

Mr. Wynack, I am requesting the Commonwealth Ombudsman's Office to intervene on my behalf and direct Telecom to forward this information to Dr. Hughes under my F.O.I. request. Telecom know of the time structure I was working within from the beginning. I had no alternative but to finish my Arbitration Submission after 9 months, even though Telecom still have deliberately withheld not only the F.O.I. documents in question, but also vital Telecom documents which I applied for under our Australian democratic rights.

By not supplying the documents I needed Telecom management have hindered me in my preparation of this Fast Track Procedure, after all, the Assessor can only view what is before him. These delaying tactics are an Australian disgrace and will be a black mark against Telecom and those who chose to conjure and conspire to pervert the course of natural justice. I have evidence at hand that shows where Telecom have gone out of their way to hinder my claim. What we have here with C.O.T., are four ordinary small business people against the might of a huge corporation, but still Telecom are afraid to supply documentation under the F.O.I. act. What will this show the General Public in time to come?

Mr. Wynack, I stress the urgent need for you to intervene on my behalf and enforce my F.O.I. application, to demand that Telecom supply this Bell Canada Raw Data to Dr. Gordon Hughes under my F.O.I. request and not through the Arbitration Procedure.

Sincerely,



Alan Smith

cc.

Dr. Gordon Hughes, Fast Track Arbitrator,  
Hunt & Hunt, Lawyers, Melbourne

Mr. Paul Rumble, Customer Resource Unit, Telecom.

Mr. Warrick L. Smith, Telecommunication Industry Ombudsman.

**22B**

STOPDATE = (1994-09-30) ?  
 EXCEPTIONS-ONLY = (NO) ?  
 DATACHANNEL = (2) ?

UNSORTED DATA FROM MASS STORAGE

| DIRECTORY | CALL CLASS | TIME            | NUMBER DIALLED /RING/OPERATOR | WAIT  | CONVERS. TIME | METERING |
|-----------|------------|-----------------|-------------------------------|-------|---------------|----------|
|           | DE         | 940929 00:52:00 | OPER: AUTODUMP                |       |               |          |
|           | LETE       |                 |                               |       |               |          |
|           | LOG        |                 |                               |       |               |          |
|           | LOG        | 940929 00:52:00 | OPER: AUTODUMP                |       |               |          |
|           | OUT        |                 |                               |       |               |          |
|           | WAR        | 940929 00:52:17 | DATACHANNEL DISC              |       |               |          |
|           | NING       |                 | ONNECTED, ERROR               |       |               |          |
|           |            |                 | ID.: 97, PARAMET              |       |               |          |
|           |            |                 | ERS: 2,0                      |       |               |          |
| 267230    | OAQ        | 940929 07:48:22 | 032851770                     | 00:32 | 00:00:29      |          |
| 267230    | OAQ        | 940929 08:24:06 | 038761853                     | 00:28 | 00:00:43      |          |
| 267230    | OAQ        | 940929 08:26:09 | 038761853                     | 00:31 | 00:00:37      |          |
| 267230    | OAQ        | 940929 08:27:27 | 038761254                     | 00:27 | 00:00:41      |          |
| 267267    | IA         | 940929 08:47:29 | RINGINGS: 6                   | 00:08 | 00:24:49      |          |
| 267230    | OAQ        | 940929 09:12:31 | 038761254                     | 00:27 | 00:00:01      |          |
| 267230    | OAQ        | 940929 09:21:52 | 038761254                     | 00:32 | 00:00:30      |          |
| 267211    | OUQ        | 940929 09:27:51 | 267298                        | 00:18 |               |          |
| 267230    | OAQ        | 940929 09:27:47 | 0175                          | 00:23 | 00:00:23      |          |
| 267230    | OUQ        | 940929 09:28:34 | 036704672                     | 00:16 |               |          |
| 267230    | OUQ        | 940929 09:28:52 | 036704672                     | 00:15 |               |          |
| 267230    | IU         | 940929 09:32:43 | RINGINGS: 2                   | 00:05 |               |          |
| 267230    | IU         | 940929 09:33:04 | RINGINGS: 2                   | 00:04 |               |          |
| 267267    | IA         | 940929 09:30:57 | RINGINGS: 4                   | 00:05 | 00:06:13      |          |
| 267230    | OAQ        | 940929 09:40:54 | 036704672                     | 00:27 | 00:09:57      |          |
| 267211    | IA         | 940929 10:06:10 | RINGINGS: 4                   | 00:05 | 00:00:49      |          |
| 267260    | OAQ        | 940929 10:06:00 | 267211                        | 00:29 | 00:00:45      |          |
| 267260    | OAQ        | 940929 10:10:58 | 1818                          | 00:27 | 00:01:19      |          |
| 267211    | IA         | 940929 10:12:01 | RINGINGS: 2                   | 00:03 | 00:01:00      |          |
| 267211    | OUQ        | 940929 10:14:19 | 267260                        | 00:04 |               |          |
| 267260    | OUQ        | 940929 10:13:44 | 1818311344033113              | 00:50 |               |          |
| 267260    | OUQ        | 940929 10:16:21 | 081231                        | 00:25 |               |          |
| 267260    | OAQ        | 940929 10:17:24 | 1818                          | 00:24 | 00:01:12      |          |
| 267211    | IA         | 940929 10:18:18 | RINGINGS: 2                   | 00:03 | 00:00:44      |          |
| 267267    | IA         | 940929 10:47:23 | RINGINGS: 6                   | 00:09 | 00:00:52      |          |
| 267211    | OAQ        | 940929 10:56:16 | 038423040                     | 00:25 | 00:01:38      |          |
| 267260    | OAQ        | 940929 10:49:14 | 11                            | 04:10 | 00:07:04      |          |
| 267211    | IA         | 940929 10:59:58 | RINGINGS: 8                   | 00:12 | 00:01:23      |          |
| 267211    | IA         | 940929 11:01:43 | RINGINGS: 2                   | 00:02 | 00:01:15      |          |
| 267260    | OAQ        | 940929 11:00:55 | 1818311344038924              | 00:54 | 00:01:12      |          |
| 267230    | OAQ        | 940929 11:07:04 | 232111                        | 00:26 | 00:00:44      |          |
| 267230    | OAQ        | 940929 11:12:57 | 1818311344038924              | 00:58 | 00:00:37      |          |
| 267211    | IA         | 940929 11:13:47 | RINGINGS: 4                   | 00:05 | 00:00:43      |          |
| 267267    | IU         | 940929 11:32:24 | RINGINGS: 12                  | 00:20 |               |          |
| 267267    | IA         | 940929 11:33:08 | RINGINGS: 8                   | 00:10 | 00:00:47      |          |
| 267267    | IA         | 940929 11:35:29 | RINGINGS: 4                   | 00:06 | 00:01:12      |          |
| 267267    | OAQ        | 940929 11:40:22 | 1818311344038924              | 00:55 | 00:00:24      |          |
| 267211    | IA         | 940929 11:41:10 | RINGINGS: 6                   | 00:09 | 00:00:26      |          |
| 267230    | IA         | 940929 11:50:39 | RINGINGS: 30                  | 00:44 | 00:02:04      |          |
| 267267    | IA         | 940929 12:03:43 | RINGINGS: 8                   | 00:11 | 00:00:50      |          |
| 267230    | OAQ        | 940929 12:08:25 | 1818311344038924              | 01:05 | 00:00:41      |          |

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|        |       |         |                           |                  |                  |
|--------|-------|---------|---------------------------|------------------|------------------|
| 267211 | IA    | 1940929 | 12:10:55!                 | RINGINGS: 2      | !00:03!00:00:53! |
| 267230 | OAQ   | 1940929 | 12:10:12!1818311344038924 | !00:54!00:00:47! |                  |
| 267267 | IA    | 1940929 | 12:14:03!                 | RINGINGS: 4      | !00:05!00:00:36! |
| 267211 | OAQ   | 1940929 | 12:14:01!267267           | !00:22!00:00:25! |                  |
| 267211 | OUQ   | 1940929 | 12:17:57!267267           | !00:17!          |                  |
| 267267 | IU    | 1940929 | 12:18:00!                 | RINGINGS: 10     | !00:16!          |
| 267267 | IA    | 1940929 | 12:19:03!                 | RINGINGS: 4      | !00:06!00:00:03! |
| 267211 | OAQ   | 1940929 | 12:19:00!267267           | !00:23!00:00:02! |                  |
| 267211 | OUQ   | 1940929 | 12:23:45!267267           | !00:23!          |                  |
| 267267 | IU    | 1940929 | 12:23:49!                 | RINGINGS: 14     | !00:22!          |
| 267267 | IA    | 1940929 | 12:25:03!                 | RINGINGS: 2      | !00:03!00:00:59! |
| 267211 | OAQ   | 1940929 | 12:24:59!267267           | !00:24!00:00:41! |                  |
| 267267 | OAQ   | 1940929 | 12:26:43!231722           | !00:28!00:01:22! |                  |
| 267267 | OAQ   | 1940929 | 12:28:33!234780           | !00:25!00:01:25! |                  |
| 267267 | OAQ   | 1940929 | 12:30:25!231722           | !00:27!00:03:05! |                  |
| 267267 | OAQ   | 1940929 | 12:48:43!231722           | !00:32!00:00:51! |                  |
| 267267 | IA    | 1940929 | 12:56:05!                 | RINGINGS: 4      | !00:04!00:00:26! |
| 267267 | IA    | 1940929 | 13:05:33!                 | RINGINGS: 10     | !00:14!00:02:46! |
| 267267 | IA    | 1940929 | 13:08:47!                 | RINGINGS: 9      | !00:13!00:05:56! |
| 267230 | OUQ   | 1940929 | 13:36:54!267267           | !00:07!          |                  |
| 267267 | IU    | 1940929 | 13:36:59!                 | RINGINGS: 2      | !00:04!          |
| 267230 | OUQ   | 1940929 | 13:40:47!1818311344038924 | !00:53!          |                  |
| 267230 | OUQ   | 1940929 | 13:41:43!1818311344038924 | !00:38!          |                  |
| 267230 | OAQ   | 1940929 | 13:42:23!1818311344038924 | !00:54!00:01:06! |                  |
| 267230 | IA    | 1940929 | 13:44:44!                 | RINGINGS: 4      | !00:04!00:01:54! |
| 267230 | IA    | 1940929 | 13:47:18!                 | RINGINGS: 10     | !00:14!00:03:38! |
| 267230 | OAQ   | 1940929 | 14:05:25!036903322        | !00:34!00:00:09! |                  |
| 267260 | OAQ   | 1940929 | 14:06:37!1818311344038924 | !00:54!00:01:46! |                  |
| 267260 | OAQ   | 1940929 | 14:09:36!1818311344038924 | !00:47!00:00:09! |                  |
| 267230 | OAQ   | 1940929 | 14:08:54!036148711        | !00:31!00:01:11! |                  |
| 267230 | OUQ   | 1940929 | 14:11:01!074434022        | !00:17!          |                  |
| 267230 | OAQ   | 1940929 | 14:12:07!032877099        | !00:25!00:00:02! |                  |
| 267260 | IA    | 1940929 | 14:10:51!                 | RINGINGS: 10     | !00:14!00:05:17! |
| 267267 | IA    | 1940929 | 14:16:01!                 | RINGINGS: 9      | !00:10!00:00:20! |
| 267260 | IA    | 1940929 | 14:16:41!                 | RINGINGS: 10     | !00:13!00:02:28! |
| 267230 | OAQ   | 1940929 | 14:15:38!078925040        | !00:26!00:15:01! |                  |
| 267267 | IA    | 1940929 | 14:39:09!                 | RINGINGS: 6      | !00:08!00:00:09! |
| 267230 | OAQ   | 1940929 | 14:39:50!036903322        | !00:29!00:00:04! |                  |
| 267260 | IU    | 1940929 | 14:40:18!                 | RINGINGS: 11     | !00:19!          |
| 267230 | IA    | 1940929 | 14:40:50!                 | RINGINGS: 4      | !00:05!00:00:41! |
| 267267 | IA    | 1940929 | 14:41:21!                 | RINGINGS: 4      | !00:05!00:00:12! |
| 267230 | OAQ   | 1940929 | 15:07:49!074434022        | !00:31!00:00:20! |                  |
| 267230 | OAQ   | 1940929 | 15:13:23!032877099        | !00:22!00:01:26! |                  |
| 267230 | OUQ   | 1940929 | 15:15:11!062497444        | !00:29!          |                  |
| 267230 | OAQ   | 1940929 | 15:15:41!062567777        | !00:28!00:07:00! |                  |
| 267267 | IA    | 1940929 | 15:31:10!                 | RINGINGS: 4      | !00:06!00:00:07! |
| 267230 | OAQ   | 1940929 | 15:23:21!008335526        | !00:31!00:11:27! |                  |
| 267267 | OAQ   | 1940929 | 15:35:24!036903322        | !00:33!00:02:24! |                  |
| 267230 | OUQ   | 1940929 | 16:01:20!032778777        | !00:22!          |                  |
| 267267 | IA    | 1940929 | 16:06:08!                 | RINGINGS: 6      | !00:07!00:05:21! |
| 267267 | IA    | 1940929 | 16:14:09!                 | RINGINGS: 6      | !00:08!00:00:16! |
| 267230 | OAQ   | 1940929 | 16:24:10!032877099        | !00:24!00:00:39! |                  |
| 267267 | IA    | 1940929 | 16:39:15!                 | RINGINGS: 6      | !00:09!00:46:18! |
| 267230 | OAQ   | 1940929 | 18:02:07!057841375        | !00:27!00:02:00! |                  |
| 267230 | OAQ   | 1940929 | 18:05:20!053428357        | !00:27!00:00:29! |                  |
| 267230 | OAQ   | 1940929 | 18:06:35!053428591        | !00:29!00:04:54! |                  |
| 267267 | IA    | 1940929 | 20:33:41!                 | RINGINGS: 7      | !00:10!00:04:15! |
|        | LOGIN | 1940930 | 00:50:15!                 | OPER: AUTODUMP!  | !                |
|        | SET   | 1940930 | 00:50:12!                 | OPER: AUTODUMP!  | !                |
|        | TIME  |         |                           |                  | !                |

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### 5.5. Call Charge Analysis (CCAS)

Incoming & outgoing call traffic is recorded at the node (eg. Warrnambool) to allow billing of successful calls to take place.

Extensive examination of the available reports (Call Charge Analysis reports) was undertaken. These reports are produced for all incoming and outgoing calls and forms the basis of the Telstra billing system data for each customer

Areas of interest were the "Service Verification Tests" (SVT) reported to have taken place from the following services:

055 267 267

055 267 60

055 267 230

Twenty calls from each service number listed above were reported to have taken place.

Austel (Austel doc 94/0268 of 11 October 1994, 16 November 1994 and 9 November 1994) had specified the test calls (all 20/service) had to be "held" for a minimum of 120 seconds to ensure adequate testing time elapsed, and hence transmission quality is confirmed or measured.

Examination of the CCAS printout for the day specified (29 Sept 1994):

20 calls from each service number DID NOT take place;

The calls attempted WERE NOT held for the prescribed 120 seconds;

NO incoming test calls were made to the services in question. The CCAS printout for the period DO NOT indicate any calls to or from the service numbers in question. As this data is used for billing purposes ALL such call activity must be recorded

it is my opinion that the reports submitted to Austel on this testing program was flawed, erroneous, fictitious, fraudulent & fabricated, as it is clear that not such testing has taken place as Telstra's own call charge system DOES NOT record any such activities. Therefore the results are flawed or did not occur.

From these conclusions the statutory declarations by Gemble & others must be considered to be questionable and may be considered to be incorrect to say the least.

## **6. CONCLUSION**

The regime of test calls established to verify the quality of the services at Cape Bridgewater must be considered to flawed and erroneous.

The fact that overlap of test calls from numerous locations & types of tests to specific test numbers indicates a serious flaw in the testing process, or simply that the tests were not carried completed successfully as stated.

As the Cape Bridgewater RSM is not a telephone exchange, no replicable tests were carried out to verify the conditions being experienced by the subscribers.

The so called tests reported to have taken place at Cape Bridgewater RSM cannot be verified by examination of the normal exchange based call data, neither incoming or outgoing. In addition, the failure to carry out the number & duration of the prescribed tests (eg. 20 calls per service, each held for 120 seconds), indicate the erroneous & fraudulent nature of the report to Austel.

The failure of Telstra to carry out standard performance tests (eg. bit error rate etc), at the multiplexer (RSM) at Cape Bridgewater is alarming & of concern. CCAS data over recent times (eg. 2004-2006), indicate a continuing & worsening level of "Outgoing Released During Setup" calls (ORDS). These reports on the CCAS data indicate that the calls are not successful in the call set up stage of the connection or is lost in the network

Such reports would indicate that the service was operating in a very unsatisfactory manner. The common factor being the multiplexer system & digital link, Portland exchange or subscriber usage.

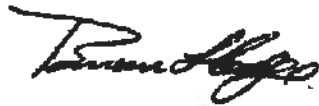
However, the continuing report of phantom calls, lost faxes & missed calls ALL point to the network including the RSM at Cape Bridgewater being the source of the problem. As a significantly bit error rate in the data network can present it self to the end user in many different ways. Unfortunately all being a degradation of services



Telstra's failure to carry out detailed technical testing of the system, or to fabricated TRT calls to services not located at the source of the problem (eg, RSM) is negligent.

As the test cannot be reproduced or verified by an independent body, Telstra has failed to meet basic Professional Standards. As such, the results are flawed, erroneous & fraudulent.

Yours faithfully



**BRIAN HODGE, B. Tech, MBA**  
**(B.C. Telecommunication)**

FAX FROM: ALAN SMITH  
G. G. T.

DATE: 2.10.04

FAX NO: 055 267 230

PHONE NO: 008 616 622

NUMBER OF PAGES (including this page) 1

FAX TO: Mr Ted Benjamin  
General Manager  
Customer Response Unit  
Telecom

Dear Mr Benjamin,

Thursday 29th September, 1994, Telecom were present at the Cape Bridgewater Holiday Camp. Mr. Peter Gamble was the leading technical adviser and they were here at Cape Bridgewater to do a verification test on my lines. Before any discussions took place I was asked how many phones I had connected to my three lines. I stated that there were two on the 267 267 line (one being an extension phone in the kiosk, the other one in the office); there was a fax machine incorporated with a phone on 267 230 and also a single-line Gold Phone.

Two of the technicians then went over to the main hall, where both the Gold Phone and the Kiosk phone are connected and arrived back in the office about 10 minutes later. It was then that I was asked, in front of a house guest, what else I have connected on my lines - do I have another extension phone? The answer was then, and is now, NO. After a discussion the two technicians left the office.

Five or ten minutes later Peter Gamble informed me that a technician had left the kiosk phone connected, across the line.

My own tests show that the kiosk phone, being a wall-phone, and 360mm from the bench below, has nowhere to hang or sit when disconnected. When this phone is disconnected the in-coming cord from the phone is 160mm. There is no way anyone can mistakenly leave this extension phone across the line. There could have been NO mistake. The phone could not have been left across the line and this is FACT.

I am now asking Austel to enquire as to what was connected to my line to make these technicians question me in the beginning. They seemed somewhat lost, and they had a red mobile phone with them. If there is a simple explanation, then please provide me with that explanation.

Because of the way Telecom have performed their misleading and deceptive conduct in the past, one's mind and thoughts are led to continue to distrust them.

Sincerely,

Alan Smith

cc Warrick L. Smith, Telecommunication Industry Ombudsman  
Chris Matherson, Austel Melbourne  
Dr. Gordon Hughes, Hunt & Hunt, Lawyers, Fast Track (Arbitrator)

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|                  |                                                                                   |                                              |                 |
|------------------|-----------------------------------------------------------------------------------|----------------------------------------------|-----------------|
| <b>FAX FROM:</b> | <b>ALAN SMITH<br/>C. O. T.</b>                                                    | <b>DATE:</b>                                 | <b>10.10.94</b> |
| <b>FAX NO:</b>   | <b>065 267 230</b>                                                                |                                              |                 |
| <b>PHONE NO:</b> | <b>008 816 822</b>                                                                | <b>NUMBER OF PAGES (including this page)</b> | <b>1</b>        |
| <b>FAX TO:</b>   | <b>Mr Ted Benjamin<br/>General Manager<br/>Customer Response Unit<br/>Telecom</b> |                                              |                 |

Dear Mr Benjamin,

It is not you I disbelieve, it is the men who were performing verification tests on the three lines at Cape Bridgewater.

A copy of a Statutory Declaration follows this fax. When I get to a stationery shop I will sign one myself regarding the facts as stated by Ms Ezzard.

I have almost acquired proof of another lie, made by one of the men present. When I am able to substantiate this proof I will table this information.

Mr. Benjamin, one of the four men who were at this camp on the day in question had been here before, some three months ago. On 26/5/94 this same Telecom employes had been in the same kiosk where he now says the phone was left connected by mistake. For your ears - Mr Peter Gamble asked me in my office if I had anything other than the fax machine (with phone attachment) and the incoming phone line in the office (this makes two phones lines actually coming into this office). He asked me in easy hearing distance of Ms Ezzard, who was in the house lounge "Have you got any other extensions attached to your phone lines?" I said "NO". I then had a look at the electronic equipment he was using and a needle was still registering from side to side.

I asked emphatically "Have you disconnected both phones over in the hall, the Gold Phone and the Kiosk Phone?" The chap who had been here before said "Yes." We stood in limbo for seconds, minutes. Then the chap who had been here before walked out of the office with the other Telecom person.

A few minutes later I asked Peter Gamble what was wrong. It was then that he said that the Kiosk Phone had been left connected by mistake. This is emphatically incorrect.

I now ask you to ask Peter Gamble what they were saying on the red mobile phone just a few minutes before. Whatever you say, I believe that they were talking to another Telecom chap in the RCM at Cape Bridgewater.

Mr Peter Gamble has told me on two occasions that he has experienced phone problems while contacting 267 267. One was an RVA, the other was when he had been talking to me on the 267 267 number and my fax was playing up again. After the fifth or sixth short ring he asked me to

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pick up the phone the next time the fax rang. I did and an engaged signal was heard; not only be me but also by a house guest. Mr. Gambie stated then and on one other day, that he would write a letter of acknowledgement of this fact but to this day he has not.

We are supposed to work with Telecom during this Arbitration Procedure. The long-time Telecom Management Team are doing Telecom a great harm for the future but they just don't see it. This is what is sad. BHP, Esso, Western Mining, I have worked for them all. No management has ever behaved in the same manner as the Telecom Corporate Team now in office.

Considering that you have already responded to my questions on why and what happened during this Verification Testing, I wonder how you will reply now?

Sincerely,

Alan Smith

cc Dr. Gordon Hughes, Hunt & Hunt, Lawyers, Fast Track (Arbitrator)  
Warrick Smith, Telecommunication Industry Office.



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# Telecom

AUSTRALIA

Commercial & Consumer  
Customer Response Unit  
Level 6  
243 Johnston Street  
Melbourne Vic 3000

Telephone (08) 634 5796  
Facsimile (08) 634 9930

17 October 1994

Mr Alan Smith  
Cape Bridgewater Holiday Camp  
RMB 4088  
Cape Bridgewater Vic 3305

By Facsimile: (055) 267 230

Dear Mr Smith

I refer to your facsimile of 10 October 1994, regarding the visit to your premises by Mr Peter Gamble and his team on 29 September 1994.

Mr Gamble has confirmed that the events which took place during that meeting were as outlined in my letter to you of 7 October 1994. Mr Gamble agrees that there was some initial confusion over the disconnection of the extension phone in your kiosk, but once that was sorted out the tests were completed successfully.

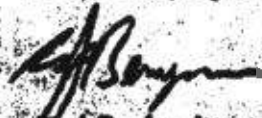
The reason for the confusion was explained to you in my letter of 7 October 1994. Initially, only the phone in your office was disconnected from your incoming line, as it was assumed that the extension phone in your kiosk was connected in series further down that line. Had this been the case, disconnecting the phone in your office would have in turn disconnected the phone in your kiosk. However, testing indicated that some equipment was still connected on that line, prompting the question to you about another extension. The extension line to the kiosk was then checked and found to be connected in parallel from an earlier point along your line, rather than in series from your office. This meant that the extension phone in the kiosk needed to be physically disconnected. This was done and the tests were completed successfully. I understand that you also spoke to Mr Gamble on 13 October 1994 and that you now have a clearer understanding of this matter.

In paragraph 7 of your letter you have made reference to a "red mobile phone" carried by the technicians. This phone was a "Duttinaki" telephone handset, and is used by Telecom technical staff for testing telephone lines and to make and receive calls. It is not a mobile phone and must be connected to a telephone line for it to work. This telephone was used to enable the technicians at your premises to co-ordinate the measurement activities undertaken on your lines with the technicians at the other end of the line at the Cape Bridgewater RCM.

...testing report on your service is currently being finalized and will be provided to you shortly.

Finally, when talking to Mr Gamble you asked whether Telecom had any HLM1 equipment on the line. This question will be addressed in Telecom's response to your facsimile of 8 October 1994, which will also be provided to you shortly.

Yours sincerely



Ted Benjamin  
National Manager  
Customer Response Unit

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94/0269

AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

11 October 1994

Mr Peter Gamble  
Manager, Engineering and Technical Consultancy  
Customer Response Unit  
TELECOM

Facsimile: (03) 634 9930

Dear Peter

**ISSUES CONCERNING SERVICE VERIFICATION TESTS.**

Following on from your telephone conversation today with Mr Cliff Mathieson, I confirm that AUSTEL requires a written statement from Telecom detailing the deficiency of the current testing process for the "Call Continuity / Dropouts to Neighbouring LIC" test contained in the Service Verification Tests (SVT). This statement should also detail the action Telecom intends to take to address this deficiency.

AUSTEL notes that the SVT results so far provided by Telecom are inconclusive because they do not comply with the required outcome of Section 6.3.2 of the SVT. Confirmation that calls were held for 40 seconds does not confirm these calls would have been held for the required 120 seconds.

On another matter, I understand Mr Bruce Matthews wrote to you on 29 September 1994 following up AUSTEL's earlier request for a copy of test data produced by Telecom in conducting the SVT. I also understand that the nature of the data required by AUSTEL was further confirmed in subsequent conversations with Mr Matthews and Mr Mathieson. As noted in these conversations, the required data is that produced in performing section 6.3 of the SVT, and should identify the date and time of day test calls were made from each origin, and the technology type of the originating exchange. As AUSTEL's review of the SVT will take place in November 1994 this data is required as soon as possible.

Yours sincerely

  
Norm O'Doherty  
General Manager  
Consumer Affairs

cc Mr Steve Black

23E

94/0269

16 November 1994

Mr S Black  
Group General Manager  
Customer Affairs  
TELECOM

Facsimile No: (03) 632 3241

Dear Steve

**SERVICE VERIFICATION TEST ISSUES**

The recent SVT results for Mr Alan Smith raise some issues on which AUSTEL requests clarification, as follows.

- The letter provided to Mr Smith informing him of his SVT results notes that the Public Network Call Delivery Tests relevant to his 008 service used a 1-800 number that simulated the routing of his 008 services. AUSTEL is seeking confirmation from Telecom that the network equipment utilised on calls to the 1-800 number is the same as that which would have been used by calls to Mr Smith's 008 service (with the exception of the termination number).
- The Call Distribution Tables on pages 12 and 14 record that the total calls made to each number are in excess of 600. AUSTEL requests that Telecom detail the process which determines the "1st 500" calls under test 6.9, given that a combined total of over 600 calls have been made from multiple origins.

I would also like to take this opportunity to formally confirm three issues raised at our recent meeting of 9 November 1994.

- (1) Telecom will provide AUSTEL with the detailed individual call data (ie. time of day & origin of call) which has been the subject of previous correspondence from AUSTEL. This data was originally requested by AUSTEL on 25 August 1994. As discussed at our meeting, the data is



required by AUSTEL as part of our review of the SVT, and will be required by the consultant assisting AUSTEL in this review. (Please note that call data for all the test calls is required, not just the data for the first 500 calls). AUSTEL requires this data by 23 November 1994. The provision of this data by this date is essential to the effectiveness of AUSTEL's review of the SVT.

- (2) In the near future Telecom will conduct the "Demonstration Tests" on the services of customers for whom the SVT have been completed. AUSTEL notes that the SVT were conducted a considerable time ago on some of these customer's services. Although these tests are not part of the SVT, this data will be used by AUSTEL in our review of issues related to the SVT. The results from the "Demonstration Tests" will also be provided to our consultant, and AUSTEL requires some of these test results by 23 November 1994.
- (3) That Telecom will shortly provide, as requested in AUSTEL's letter of 11 October 1994, a statement on:

*the deficiency of the current testing process for the "Call Continuity / Dropouts to Neighbouring LIC" test contained in the Service Verification Tests (SVT). This statement should also detail the action Telecom intends to take to address this deficiency.*

This statement will be provided to AUSTEL's consultant as part of the review of the SVT, and is required by 23 November 1994.

The three matters detailed above have been all been outstanding for some time. I would be grateful if you could address your personal attention to ensuring the required information is provided to AUSTEL by the date requested.

Yours sincerely

  
Norm O'Doherty  
General Manager  
Consumer Affairs

IN THE MATTER OF an arbitration pursuant to  
the Fast Track Arbitration Procedure dated 21  
April 1994

Between

ALAN SMITH

Claimant

and

TELSTRA CORPORATION LTD trading as  
TELECOM AUSTRALIA

Telecom

**STATUTORY DECLARATION OF PETER GAMBLE**

I, PETER HENRY GAMBLE of 8/242 Exhibition Street, Melbourne in the State of  
Victoria solemnly and sincerely declare and affirm as follows:-

1. I am employed by Telstra Corporation Limited ("Telecom") in the position of  
Engineering Manager, Customer Response Unit, Commercial and Consumer  
Business Unit and am authorised to make this Declaration on behalf of Telecom.  
I make this Declaration having made all due enquires of employees, agents,  
consultants and contractors of Telecom.
2. I have been employed in my present position at Telecom since 1993. I am  
responsible for the research and analysis of the network background of  
customers in dispute with Telecom and the review of any testing programs  
carried out in relation to such customers.
3. The attached report numbered B004A dated 12 December (the "Report") has  
been prepared for the purposes of Telecom's defence to a claim made by the  
Claimant which is to be resolved by means of the Fast Track Arbitration  
Procedure.
4. The Report was prepared jointly by Telecom engineering and technical staff and  
Telecom engineering and technical contractors (the "authors").
5. The Report has been prepared using contemporaneous documentary records  
produced in the usual course of Telecom's business and statements made by  
present and former Telecom staff which are recorded in statutory declarations.
6. I do 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. However, I have  
read the Report and I am informed by each of the authors that the Report  
accurately states the facts stated in the Report.

AND I MAKE this solemn declaration conscientiously believing the same to be  
true and correct.

DECLARED at Melbourne )  
in the State of Victoria )  
this 12<sup>th</sup> day of December 1994. )

*Peter H Gamble*

Before me  
CHRISTOPHER MARK McLEOD  
Freehill Hollingdale & Page  
101 Collins Street, Melbourne  
A Solicitor holding a current  
Practising Certificate pursuant  
to the Legal Profession  
Practice Act 1958.

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IN THE MATTER OF an arbitration pursuant  
to the Fast Track Arbitration Procedure dated  
21 April 1994

Between

ALAN SMITH

ACT  
7.  
Claimant

and

TELSTRA CORPORATION LTD  
trading as  
TELECOM AUSTRALIA

Telecom

### WITNESS STATEMENT OF PETER HENRY GAMBLE

I, PETER HENRY GAMBLE of 8/242 Exhibition Street, Melbourne in the State of Victoria, solemnly and sincerely declare and affirm as follows:

#### EMPLOYMENT DETAILS

##### Introduction

1. My name is Peter Henry Gamble, of 8/242 Exhibition Street, Melbourne. I obtained a Bachelor of Science (Technology) degree, specialising in electronics engineering, from the University of New South Wales in 1968.
2. In December 1965 I joined the then PMG's Department as an assistant technician and was promoted to an engineering position on graduation. Since then I have held a number of engineering positions, before being promoted to executive level in 1985. I am currently the Manager, Engineering and Technical Consultancy, Customer Affairs Group. My current work includes the management of a small team of engineering and technical staff who are investigating and analysing complaints received by Telecom from customers who are in dispute with Telecom, providing assistance to regional staff on these issues and supervision of the Service Verification Test process. Attached hereto and marked "PHG - 1" is a copy of my resume.
3. During my career with Telecom, I have undertaken a number of engineering, business, marketing and management training courses. I have been using computers to assist with my work since completing a one year course at post graduate level in computing in 1967. This has included the development of a number of sophisticated data processing, forecasting, modelling and data base systems.

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**Contact with Mr Alan Smith**

4. I first became involved in October 1993 with a group of customers who were referred to Telecom by AUSTEL. My initial tasks were firstly, to collate and supply to independent consultants engaged by Telecom some basic data about these customers' exchanges and Customer Access Network (CAN) connections and secondly to conduct an analysis of the relevant CAN. This second task initially involved a theoretical study of certain aspects of the CAN and subsequently involved the taking of detailed measurements on a selection of these customers. A customer whose service was analysed and measured was Mr Alan Smith of the Cape Bridgewater Holiday Camp, Cape Bridgewater.
5. Subsequent to these activities, I also participated in a working party tasked with the development of the Service Verification Tests. This work has subsequently involved detailed negotiations with AUSTEL on these tests and the development and supervision of a program to carry out the measurements. Service Verification Tests have been conducted on Mr Smith's telephone service.
6. I have also set up and am currently managing a small group of engineering and technical staff who provide consultancy on network issues to the Customer Affairs Unit and to the various regional fault and complaint handling groups. In this capacity, and in connection with the Service Verification Tests, I have visited Mr Smith on a number of occasions and have had many telephone conversations with him. Some of these conversations were about specific incidents that he had reported, while others were general conversations about the nature of the telephone network.
7. There have been many occasions when I have contacted Mr Smith by telephone, either to return a call from him, to provide him with information or to arrange for tests to be carried out. These calls have generally been made from the Melbourne area, with some calls made via the mobile network. On all occasions except for one, I have had no difficulty in contacting Mr Smith. The one occasion when I did experience difficulty was around 5.30pm on 25 May 1994 when I received the recorded voice announcement "This service is not connected". I subsequently found that at this time there was a data fault in the Portland AXE104 which caused this incident. I was able to contact Mr Smith the following day without incident.

Towards the end of April 1994, Mr Smith rang me and advised that he had found that he could hang up his T200 phone, count to ten and then pick the phone up and continue the conversation, with the party at the other end being able to hear him counting while the phone was hung up. This situation was demonstrated a number of times. Following the conversation, I reported the incident to the Fault Management and Diagnostic Group at Waverley. After the T200 was recovered from Mr Smith's premises, I arranged for it to be examined by the Telecom Research Laboratories. Their detailed report indicated that something

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(possibly beer) had found its way into the phone and was interfering with the operation of the switch hook, resulting in the phone not immediately clearing the call when the handset was replaced.

9. I received a further call from Mr Smith a few days later, in which he accused Telecom of intercepting his fax messages. It appeared that he had sent a fax message to AUSTEL who had received only blank pages and that he thought Telecom had in some way intercepted the contents. I explained to him that this was highly unlikely. I subsequently contacted Mr Cliff Mathieson, an officer with AUSTEL, and confirmed the arrival of three blank pages. During this discussion, we agreed that the most likely explanation was that Mr Smith had put the pages into his fax machine the wrong way round. After further discussion with Mr Smith, he was prepared to accept that this was the most likely explanation.

#### CAN Analysis and Tests

10. As part of the network analysis for the customers referred to Telecom by AUSTEL, a theoretical study of certain aspects of the Customer Access Network was carried out. The key aim of the study was to investigate the CAN and the exchange ring generators to determine if sufficient ring voltage would be available at the customer's premises to meet the relevant standard. Data on relevant CAN and ring generator parameters for Cape Bridgewater was collected and a simplified circuit diagram was developed and used to conduct the analysis. Measurements were carried out on a selected range of parameters for Mr Smith's service and the results compared with the theoretical analysis.
11. Telecom has a range of design documents and technical specifications. Information extracted from one of these indicated that for the diameter of cable used for Mr Alan Smith's installation, 0.64 mm, the maximum route distance is 7.0 km and the maximum loop resistance is 749 ohms. Also, the maximum loss for the CAN connection between the customer's premises and the exchange is 7 dB 820 Hz. Information from an AUSTEL Technical Specification indicates that Customer Equipment should respond to a ring voltage of 50 volts rms and that the maximum load that can be presented to a telephone line is a Ring Equivalence Number (REN) of 3. This represents the load imposed by three single telephones as an average telephone has a REN of 1.
12. The theoretical analysis started with the cable plans for Mr Smith's service, which showed a route distance of 5.60 Km. The loop resistance of the cable was calculated as 599 ohms. A spreadsheet model was developed to calculate the ring voltage present at the customer's premises with a range of REN's with the following results:

| Ringer Equivalence Number | 1    | 2    | 3    | 5    |
|---------------------------|------|------|------|------|
| Ring Voltage (Volts rms)  | 81.2 | 75.0 | 69.0 | 58.2 |

This shows that even with excessive RENs connected to the line, there is still sufficient ring voltage available to meet the requirement of the AUSTEL Technical Specification. The model was subsequently run with the highest measured value of loop resistance instead of the calculated value. This resulted in less than a 1% drop in the calculated ring voltage at a load of 3 REN.

13. Following the completion of the theoretical analysis, a series of measurements on a range of parameters in respect of Mr Smith's CAN were arranged. These were carried out by Mr Mick Pannell, Principal Telecommunications Technical Officer Grade 1 from the Power Co-ordination Group, who is experienced at carrying out these types of measurements. Measurements were carried out on all three of Mr Smith's lines, 055 267 267, 055 267 230 (fax) and 055 267 260 (Goldphone).
14. Measurements were carried out on each of Mr Smith's lines on 26th November 1993 and showed loop resistances of 633 ohms, 645 ohms and 632 ohms respectively. Transmission loss measurements at 820 Hz were 4.6 dB, 4.7 dB and 4.6 dB respectively.
15. The measurements of Insulation Resistance were inconclusive as considerable variation was found between the various measurements taken on the three cable pairs. Some consistency in the measurements could be expected on pairs within the one cable. Insulation resistance is one measure of the quality of a cable pair as it indicates how well the cable pair is insulated from other cable pairs and from earth. Low insulation resistance can be caused by moisture entering the cable and could result in noise or crosstalk on both incoming and outgoing calls. On the first cable pair, a small amount of extraneous voltage was present, which indicated a possible breakdown in the insulation resistance but precluded its accurate measurement. The second cable pair showed acceptable results while the third cable pair showed a lower than expected insulation resistance, probably due to the presence of test equipment on the line. Further measurements of insulation resistance were taken by the same officer on 26th May 1994 which showed consistency across the three cable pairs with all values being 20 Megohm or higher.
16. Attached and marked "PHG - 2" is a document setting out a complete tabulation of the results of the CAN measurements.
17. The measurements showed that the CAN was within specifications for loop resistance and transmission loss. The insulation resistance measurements showed that the condition of the cable was satisfactory.

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**Performance Analysis**

18. A review was conducted in March 1994 of performance data relating to the Cape Bridgewater Remote Customer Multiplexer (RCM) and Portland AXE104 rural digital exchange. The data was also compared with information from all Victorian RCMs and AXE104s. The review was subsequently extended to include additional data for Cape Bridgewater and Portland up to June 1994.
19. Cape Bridgewater is an RCM site which provides service for approximately eighty customers in the Cape Bridgewater area. The RCM is connected to the Portland AXE104 exchange, which also provides service to nearly nine hundred local customers and a further twenty customers in the Mt Richmond area by a second RCM. There is also a five thousand line ARF exchange and a recently installed one thousand line AXE RSS which provide service to Portland customers. Prior to the installation of the RCM in August 1991, the Cape Bridgewater customers were connected to a small rural exchange, known as an RAX.
20. The results obtained from the sampling of actual calls for Cape Bridgewater RCM and Portland AXE104 are as follows:

|                 | Cape Bridgewater RCM | Portland AXE104      |
|-----------------|----------------------|----------------------|
| Period          | July '91 to June '94 | July '91 to June '94 |
| Effective calls | 70.6%                | 65.5%                |
| Customer Loss   |                      |                      |
| Busy            | 11.8%                | 13.5%                |
| Didn't answer   | 9.4%                 | 13.0%                |
| Abandoned       | 4.7%                 | 7.4%                 |
| Network Loss    | 3.5%                 | 0.5%                 |
| Sample size     | 85                   | 843                  |

21. Customer Loss refers to calls which are not effective for customer related reasons. The table above shows three such categories: the wanted party being busy, the wanted party not answering, and the calling party abandoning the call either by not completing dialling or by hanging up before the called party answers. Network Loss refers to calls which are not effective because of congestion or switching loss.
22. The Victorian call sample data for all RCMs and AXE104s is as follows:

| Average Monthly  | RCM  |      | AXE104 |      |
|------------------|------|------|--------|------|
|                  | TA   | TR   | TA     | TR   |
| Cape Bridgewater | 0.42 | 0.42 | —      | —    |
| Portland         | ---  | ---  | 0.27   | 0.53 |
| Victoria         | 0.83 | 0.84 | 0.69   | 0.85 |

Examination of the figures shows that the Cape Bridgewater RCM and the Portland AXE104 have lower rates for faults cleared to, or suspected of being in the exchange or network than the Victorian state average.

26. The information extracted from call samples from the network and from fault reports lodged by customers and tabulated above does not disclose any irregularities or poor performance in the Cape Bridgewater RCM or the Portland AXE104 as seen by the customers connected to this equipment during the periods analysed.

#### Customer Dialling Behaviour

27. While processing call data sampled from the network it became clear that a number of calls were being mis-dialled. These calls were being directed to number ranges which had no customers connected and would have resulted in the caller receiving a recorded voice announcement (RVA) indicating that "This number was not connected." There had also been a persistent level of reports from customers describing incoming calls which were unsuccessful for a variety of reasons. Accordingly, a project which would analyse customer dialling behaviour was commenced. The project was primarily aimed at collecting data from various existing studies and analysing it for consistent patterns.
28. From various existing measurement processes, it was already known that an average of 15% of calls receive busy tone because the called party is already using the phone and that a further 14% of calls are unanswered. It had also been observed by Telecom's Manual Service Assessment Service (which ceased in 1991) that abandoned calls averaged 4.4% of call attempts and that in a further 0.33% of call attempts the wrong number had been dialled.
29. The results of a number of studies were examined which showed that a significant percentage of calls were mis-dialled. The typical problems included reversed digits, digits which were one off the correct number and partial or complete lack of the correct STD code. Further investigations of the partial lack of STD code revealed two principle causes. The first was that some callers were not waiting for dial tone before commencing dialling and the second was callers using a PABX forgetting to dial the network access code (usually 0). A further study, which had measured the delay in availability of dial tone, showed that



while the typical delay was 400 to 800 milliseconds (depending on the type of switching equipment), this could increase to over 1 second in busy periods. The study also showed that dialling information was received by the exchange in less than 1 second on a significant number of calls.

30. Many of the studies examined were carried out during the 1980's when the proportion of push-button phones was considerably lower. It is considered that some of the effects noted in these studies, particularly dialling before dial tone had been sent by the exchange, would have increased. This is particularly the case when the phone is equipped with memory and/or re-dial buttons and these are used to set up the call. Further, recent instances of repeated dialling of the wrong number have been observed, indicating that the caller has probably used the re-dial button.
31. The implications of these results for Mr Alan Smith's service are as follows. First, callers attempting to contact Mr Smith may have dialled the wrong number, resulting in the caller possibly obtaining a different called party, but also busy tone when Mr Smith was not using his phone, and ring tone when Mr Smith's phone never rang. Further, the outcome could have been an RVA which indicated that "This number was not connected." Secondly, if the caller did not wait for dial tone but dialled the number correctly, the exchange would not receive at least the leading zero of the STD prefix, then the same type of possibilities described earlier exist. An analysis of the use of the numbering spectrum showed that if the caller was located in Melbourne and the exchange received 55 267 267, the caller would receive the RVA mentioned above as the Melbourne number 552 6726 is not connected. This same situation occurs in the 053 (Ballarat), 059 (Mornington) and 087 (Mt Gambier) numbering areas, all areas where Mr Smith has reported that callers are having problems contacting him.
32. Mr Smith has recently lodged a complaint about a call to his 008 service with AUSTEL. This complaint, which included a Statutory Declaration from the caller, has been investigated. The results of the investigation showed that the caller dialled 008 819 522. This happened to be a Telecom number and was answered accordingly. The caller then immediately dialled, 008 816 522 and was connected to Mr Smith's service. Further investigation showed that a subsequent call to Mr Smith's 008 number was made a short time later and that the caller and Mr Smith were in regular contact both by fax and phone.
33. The results of the review of the studies on customer dialling behaviour referred to in paragraph 29 above do provide possible explanations for some of the difficulties being experienced by Mr Smith. The recently investigated complaint confirms one occasion of a mis-dialled number to Mr Smith's service.

#### Service Verification Tests

34. The Service Verification Tests (SVT), described in document G 001 (Issue: Interim, 27 September 1994) prepared by the Customer

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Response Unit, have been developed by Telecom in conjunction with AUSTEL and have been approved by AUSTEL as the basis upon which a telephone service at the Service Delivery Point may be considered to be operating satisfactorily at the time the tests were conducted. The Service Verification Tests measure:

- selected electrical parameters of the customer access network
  - the ability of the exchange to deliver calls to the Service Delivery Point
  - the capability of the network to successfully connect calls from various network origins to a Line Interface Circuit adjacent to the customer's service, simulating the customer's line and line interface connection.
35. The service under test is compared with a required set of outcomes as detailed in G 001. When the required outcomes are met, the service to that customer will be considered to be operating satisfactorily at the Service Delivery Point by both Telecom and AUSTEL.
36. Prior to initiating the test, I discussed the typical incoming call profile of Mr Smith's service with him, noting in particular several areas where callers had had difficulty in contacting him. I also confirmed with him that his three telephone lines would be measured as part of the Customer Specific Line Tests (Section 6.1) and that the Public Network Call Delivery Tests (Section 6.3) would include a 1 800 number (1 800 numbers replace 008 numbers), the routing of which would mimic his 008 number. The Customer Line Hunt Group Tests were not relevant as Mr Smith does not have a line hunt group.
37. The Customer Specific Line Tests were conducted on 29th September 1994. I was present on the Camp Bridgewater Holiday Camp site while these tests were being carried out and observed a number of the tests being conducted by the National Network Investigations Staff. Also present were two of my staff, Mr Bruno Tonizzo, a Principal Telecommunications Technical Officer Grade 2, who has been involved as an observer at all of the SVTs conducted to date, and Mr Colin Roberts also a Principal Telecommunications Technical Officer Grade 2, who participated in the discussions that I had with Mr Smith on that occasion. We also visited the Portland Exchange and the Cape Bridgewater RCM site. The Public Network Call Delivery Tests were conducted from 17th September 1994 to 24th September 1994. The report from National Network Investigations, dated 21st October 1994 and containing the detailed results of all of the tests, was forwarded to Mr Smith on 8th November 1994. (Ref 4.35 4.40)
38. The service passed all of the Customer Specific Line Tests and the two Public Network Call Delivery Tests that were carried out. One Call Delivery Test was carried out to a number (055 267 266) close to his service number and achieved a success rate of 100%. The second was carried out to a 1-800 number, which simulated the routing to his 008

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number, achieving a success rate of 99.8%. Both of these results are above the level established for call connection at the individual customer level. The service is therefore considered to be operating satisfactorily.

#### **Overall Conclusion**

39. In addition to the routine maintenance and investigations carried out by the Network Operations and service delivery Technical staff, I have conducted a series of detailed tests and analysis of data pertaining to Mr Smith's service, the Cape Bridgewater RCM and the Portland AXE104 exchange.
40. The detailed CAN analysis and measurements conducted in November 1993 showed that the CAN was within the design specifications examined and was generally satisfactory with the exception of insulation resistance, where the results were inconclusive. It is noted that there were no consistent complaints by Mr Smith during the November 1993 to May 1994 period relating to noise or crosstalk which would have been evident with low insulation resistance. Further measurements in May 1994 confirmed that the insulation resistance was satisfactory. In my opinion the insulation resistance did not have an impact on the service Mr Smith was receiving.
41. The analysis of the call data, sampled from actual traffic, and the fault reporting data showed that the performance of the Cape Bridgewater RCM and the Portland AXE104 was satisfactory during the period over which the data was collected.
42. The customer dialling study which documents customer dialling errors shows some possible explanations for the incidents that Mr Smith has experienced. It should be noted that the types of customer dialling errors documented are exhibited by all customers and affect all customers.
43. The SVT, carried out in September 1994, showed that the service passed the Customer Specific Line Tests and the Public Network Call Delivery Tests. Accordingly, the service was deemed to be operating satisfactorily at that time.
44. My overall conclusion based on the analysis of the selected performance parameters outlined above is that for the periods covered by these investigations (which commenced in July 1991 and concluded in September 1994), Mr Smith's service met appropriate performance levels and therefore appeared, in my opinion, to be operating satisfactorily.

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AND I MAKE this solemn declaration conscientiously believing the same to be true and correct.

DECLARED at Melbourne  
in the State of Victoria  
this 12<sup>th</sup> day of December 1994.

*Peter H Grant*

Before me:

*Chris McLeod*

**CHRISTOPHER MARK McLEOD**  
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Practising Certificate pursuant  
to the Legal Profession  
Practice Act 1988.

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