CAV CHRONOLOGY LGE

Exhibit 92 to 127

Sa response 25.8.94.

(File)

Rumble Black Geary Chalmers Freehills

Hunt & Hunt
LAWYERS

16 August 1994

Our Ref: GLH
Matter No:
Your Ref:

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

Dear Mr Rumble

ARBITRATION - SMITH

I enclose copy facsimiles received from Mr Smith dated 12 August and 15 August 1994.

In his facsimile of 12 August, Mr Smith foreshadows the submission of his completed claim by 17 August 1994. In his later fax, he indicates that the submission will be delayed until 18 August 1994.

Although Mr Smith states no further submissions will be made after 18 August, I note he is simultaneously asking for a direction from me in relation to the production of certain raw data. This is consistent with the matters foreshadowed in the letter from George Close & Associates of 12 August which I have forwarded to you today by a separate facsimile. I will be asking Mr Smith to clarify whether he seeks to include the raw data or any analysis of the raw data as part of his submission.

If Mr Smith does seek to rely upon the raw data or the results of any analysis of the raw data, and if such information is to be made available to him, then I could not accept his submission as being "complete" as at 18 August 1994.

As requested in my covering facsimile enclosing a copy of Mr Close's letter, I would be grateful if you would provide me with your initial reaction to the request so that I can consider appropriate directions on the matter.

Mr Smith also makes a second request, that is, for me, the Resource Unit and certain claimants to view privileged information in the possession of Telecom. I am seeking further clarification of this request from Mr Smith but my inclination is to disallow it.

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11303523_GLH/KS

M34001

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.

GEORGE CLOSE & ASSOCIATES PTY LTD

Data - Telecommunications Consultants

Suite 202,
83 Mount Street,
NORTH SYDNEY N.S.W. 2060
Phone: (02) 922 4888
Facsimile: (02) 957 3627

Dr Gordon Hughes
Hunt and Hunt
Lawyers
Level 21
459 Collins Street
MELBOURNE QLD 3000

Dear Dr Hughes

Together with my colleagues, I have studied and assessed the Bell Canada International Report to Telecom Australia.

There is a significant lack of reference material, essential to give credibility to their conclusions, which in the light of emergent hard evidence produced in the last few months is not simply dubious, but by Telecom's admission, incorporeal.

Accordingly, we are requesting the raw data, documentation, calculations, minutes, inter-Telecom correspondence and Telecom. internal reports associated with the Tivoli Restaurant and Theatre, Golden Messenger Service, Cape Bridgewater Holiday Camp, and Japanese Spare Parts. It should naturally include all test procedures, time scales, dates, length of test, phone numbers and point to point of tests.

Without this information, essential to substantiate the percentage claims so readily displayed but not supported by basic data, their claims and Telecom's employment of them, be it ever decreasing, are unacceptable.

If it is preferable for this information to be included in the individual COT Case documentation under Clause 7.5 of the Fast Track Arbitration Procedure, please advise and we will comply.

Yours sincerely

GEORGE CLOSE

92 M34000

THIS CORRESPONDENCE TO BE ATTACHED AND FORM PART OF MY REPORT ON THE TIVOLI RESTAURANT AND THEATRE

	A	B	C	D	E	F	G
	Date	Count er	Type of Info	Description	From	To	New File Ref No
1							
574	23-Nov-92	S36	Letter	I have also arranged for a new fax service as requested by you.	D Lucas	A Smith	A11
575	24-Nov-92	C310	Letter	Attach copy of log book with 0345 early morning call - (computer calls first, if no response revert to the operator)	City West CSC	Alan Smith	A33
576	24-Nov-92	C73	Letter	Answer request regarding fault information that has affected 055 267 267	Telecom	Alan Smith	A4
577	24-Nov-92	C74	Letter	Fault at Windsor exch. causing RVA , affected incoming STD from Melbourne to Bridgewater for a period of up to 3 weeks. Maximum impact on STD calls from Melbourne up to 50%. Windsor exchange reprogrammed on 19 March 1992 and rectified problem	Telecom	Alan Smith	A4
578	24-Nov-92	C75	Letter	Fault local custom. rec. wrong nos. or RVA-reported on or after 2 Oct.92 & found & fixed 7 Oct.92. Delay in fixing due to intermittent nature and caused by 1 of 40 "registers" in exch. Test data suggest affect. a max. 1.5% of incom.calls between 2-7 Oct	Telecom	Alan Smith	A4
579	24-Nov-92	C76	Letter	Probl. of congestion could have been due to a combo of 2 faults (Windsor & "registers") & the vol. of test calls being generated to locate faults. Test results indicate cong. probl. has not occured since 7 Oct.92 when Port. exhc. fault repaired	Telecom	Alan Smith	A4
580	26-Nov-92	m269	File Note	Re Gold Phone. Answer Reversal problem. Stokes changed TCL-10 to TCL-13 with no effect. Tests done.	Graham Stokes		a22(1)
581	01-Dec-92	B116	letter	letter re Telecom sponsorship. Smith mentions "In fact the personnel which I have dealt with should be congratulated on his loyalty".	Smith	Blunt-Telecom	A10
582	07-Dec-92	B119	letter	re unable to undertake sponsorship deal, believe all his problems have been fixed	Blount	Smith	A10
583	08-Dec-92	J135	Letter	Sets out action taken by Telecom to identify and rectify faults with Smith's service from 28.7.92 - 9.11.92	J Holmes	E Cardiff	A6
584	08-Dec-92	J136	Letter	Fault in Melbourne causing RVA to be received indentified and cleared on 19.3.92	J Holmes	E Cardiff	A6
585	08-Dec-92	J137	Letter	34,686 test calls made to Cape B'water from 28.7.92 to 7.10.92 - 106 failures (this equals 0.3%)	J Holmes	E Cardiff	A6
586	08-Dec-92	J138	Letter	Monitoring equipment (CCAE) attached to Smith's service at exchange and premises	J Holmes	E Cardiff	A6
587	08-Dec-92	J139	Letter	Fault idenified on 2.10.92 and rectified 7.10.92 which wold hav caused wrong no.s and RVAs for calls coming from local area	J Holmes	E Cardiff	A6
588	08-Dec-92	J140	Letter	Telecom replaced alarm/ring for Smith's phone at no cost to Smith	J Holmes	E Cardiff	A6
589	08-Dec-92	J141	Letter	Smith indicated service working to satisfaction	J Holmes	E Cardiff	A6
590	08-Dec-92	m271	Detailed Call Data	Detailed Call Data Report 01/10/92 - 8/12/92. k03456 - k03506.	Graham Stokes		a22(1)
591	08-Dec-92	m272	ELMI Report	ELMI Monitoring Report on 267267: 15/09/92 - 08/12/92. k03507-k03568.	Graham Stokes		a22(1)
592	11-Dec-92	C284	Settlement issues paper	Smith wanted 150k, chance of legal action high	Rosanne Pittard		A33
593	11-Dec-92	C285	Settlement issues paper	[redacted] of Telecom - historically March data problem, local Portland problem fixed in October, wiring and cabling issues and RVA or congestio[redacted]	Rosanne Pittard		A33
594	11-Dec-92	C286	Settlement issues paper	Slow resolution by Telecom of past problems of Smith - both technical and claims	Rosanne Pittard		A33
595	11-Dec-92	C287	Settlement issues paper	Evidence - letters say not getting through, AUSTEL and Ombudsman both trouble getting through, claims credible in media	Rosanne Pittard		A33
596	11-Dec-92	C288	Settlement issues paper	Smith claims loss of business and loss of prospective partner who cou[redacted] not get through on the phone	Rosanne Pittard		A33
597	11-Dec-92	C289	Settlement issues paper	Mr Smith's service problems were network related and spanned a peri[redacted] of 3-4 years - possible immunities	Rosanne Pittard		A33
598	11-Dec-92	C290	Settlement issues paper	Smith's service suffered over several years - some diff. to detect exchange problems in last 8 months	Rosanne Pittard		A33

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SMITH LATE REVIEW DATABASE

Applicant	File number	Document number	Document date	Description	Primary Decision Table	Exemption Claimed
29	Smith Grade of Service Complaint, Cape Bridgewater K02408 - K02513	K02480 - K02481	6.7.92	Minute to G. Davies from M. Robins	C	R
29	Smith Grade of Service Complaint, Cape Bridgewater K02408 - K02513	K02482	1.7.92	Letter to A. Smith from M. Ross	C	R
29	Smith Grade of Service Complaint, Cape Bridgewater K02408 - K02513	K02483	2.7.92	Minute to J. McCreery and ors from M. Ross	C	R
29	Smith Grade of Service Complaint, Cape Bridgewater K02408 - K02513	K02484	9.9.99	Computer printout headed 'Fault Status Enquiry'	C	R
29	Smith Grade of Service Complaint, Cape Bridgewater K02408 - K02513	K02485	9.9.99	Fax cover sheet to S. Uniacke from M. Ross	B	OC
29	Smith Grade of Service Complaint, Cape Bridgewater K02408 - K02513	K02486	27.5.92	Fax cover sheet from B. Watson to M. Ross	A	LPP
29	Smith Grade of Service Complaint, Cape Bridgewater K02408 - K02513	K02487 - K02488	25.5.92	Minute from R. Denmead to B. Watson	A	LPP
29	Smith Grade of Service Complaint, Cape Bridgewater K02408 - K02513	K02489 - K02491	25.5.92	Attachments to minute from R. Denmead to B. Watson	C	R

18E EXAMPLE OF LAP

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LEGEND: TABLE A - WHOLLY EXEMPT TABLE B - RELEASED WITH DELETIONS TABLE C RELEASED IN FULL TABLE D - IRRELEVANT MATERIAL

22.12.94

93

A

FAX FROM:	ALAN SMITH	DATE:	28th August, 1994
	C. O. T.		
FAX NO:	055 267 230		
PHONE NO:	008 816 522	NUMBER OF PAGES (including this page)	
FAX TO:	DR GORDON HUGHES HUNT & HUNT LAWYERS MELBOURNE	*FAST TRACK ARBITRATION*	

Dear Dr. Hughes,

I am asking the Arbitration procedure, the Resource Team, to view this new evidence at hand, presented with this letter.

I believe that this late F.O.I. documentation, if accepted as evidence, will substantiate even further what I have submitted in the segment of my submission under "Bell Canada Testing". I firmly believe that, after the Resource Team view the documents presented, they will ask Telecom for access to the Raw Data from Bell Canada as well as the Neat Testing Data. This new evidence at hand shows there has been incorrect testing somewhere.

In brief, my submission, which you already have at hand, states that the Bell Canada Report shows that on the 5/11/93, phoning systems from two different locations in Melbourne generated a series of test calls to the same PTARS at Cape Bridgewater, 267 211. These calls were made over the same period of the same day, yet no collision of these calls took place. This, in itself, spells out that something was wrong with Bell Canada Testing. This new evidence, marked "A1", is a Test Network Performance Information Document which states that on 5/11/93, even further tests (making three in all) were coming from yet another location. This sample of tests, like the Bell Canada Tests, show 99.3204%; Bell Canada show 99.98%. Overall a series of some 2,000 to 3,000 calls were made, all to the same 267 211 number, from three different locations and there was NO collision of calls. Who is kidding who?

I am sending these tests to two different professors at two different universities to discover the probability of this happening. I am also sending this information to a communication company for assessment

I would now ask Dr. Hughes for patience. Document "A2" shows that, had Austel not stepped in, Telecom would not have instructed Bell Canada to write these test reports, or even to do the tests. I believe that this letter shows, once again, Telecom's reluctance to give me a service the same as my competitor. I believe Telecom have victimised me.

Document "A3" shows Usage Patterns; calls having been registered as going out from 267 267 even though I never used this number for outgoing calls, but reserved it for incoming calls only. "A4" shows that Telecom states no calls were generated from this number. Two conflicting statements by the same company. Again, this shows that the monitoring equipment at Cape Bridgewater has, for many years, been wrongly read or incorrectly monitored.

Documents "A5" and "A6" show Telecom's reluctance to test calls In "A5" we see Telecom contemplating a PLOT of some kind. Is it to hide these monitoring procedures? Who knows? "A5", the hand written statements, once again suggests confusion regarding current network loss figures.

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which Telecom employee had disclosed personal information gained by listening to my telephone conversations in Portland.

- It is true that I contacted Mr David Stockdale as I wanted to identify which person in National Network Investigations was advising in writing the Telecom staff responsible for making decisions to exempt or delete information from me under the F.O.I. procedures on the basis that the information contained in the documents that he was supplying would be considered harmful to Telecom as an uninformed person would be able to correctly interpret the information. It is true that at the time I spoke to Mr Stockdale I called him a 'bloody liar' and I can prove that he is.

I consider Telecom's actions in live monitoring my telephone service for an extended period of time without my knowledge or consent, an extremely improper action. I also consider that Telecom has been engaged in wholesale misleading, deceptive and unconscionable conduct by making public statements to the effect of denying that my service was not live monitored.

It is my understanding that Telecom even mislead Austel, the Telecommunications Industry regulator.

Telecom have made no attempts to apologise to me, publicly or privately, for live monitoring my telephone service.

I have no intention of providing Telecom with any written undertaking regarding this matter.

I resent the inferences contained in your letter that this serious matter of disclosing information about my confidential and personal telephone conversations, can be addressed in the arbitration procedures. Mr Black you know and you have confirmed it with Graham Schorer, that the live monitoring issue is a separate issue and is not an issue being dealt with under the arbitration procedure.

I require from Telecom a list naming all the Telecom technicians who were involved in live monitoring my telephone conversations by close of business Tuesday 13 September 1994.

A copy of this letter has been sent to the Australian Federal Police, the Minister for Justice, the Minister for Communications, the Telecommunications Industry Ombudsman, Austel, and the Arbitrator.

Yours respectfully

Alan Smith
Cape Bridgewater Holiday Camp

Telecom AUSTRALIA

COMMERCIAL AND CONSUMER
CUSTOMER RESPONSE UNIT
8/242 EXHIBITION STREET
MELBOURNE VICTORIA 3000

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

25 August 1994

Dr Gordon Hughes
Hunt & Hunt

Facsimile No. (03) 614 8730

Dear Sir

Fast Track Arbitration - Garms, Schorer, Gillan, Smith

I refer to your letter of 16 August 1994, concerning Mr Close's request for documentation.

Mr Close has requested "*raw data, documentation, calculations, minutes, internal Telecom correspondence and Telecom internal reports associated with the Tivoli Restaurant and Theatre, Golden Messenger Service, Cape Bridgewater Holiday Camp and Japanese Spare Parts.*" I understand from the first two paragraphs of his letter that his request is for those types of documents which were created in relation to the preparation of the "Bell Canada International Report to Telecom Australia" dated October 1993 ("the Report").

I have obtained files containing some test results and working documents belonging to Bell Canada International which they created while preparing their Report, and subsequently left with Telecom. I have been informed by Bell Canada International that they have not retained any other files containing such documents. These files consist of approximately 500 pages.

These files contain some information specifically relating to several Telecom customers other than the claimants, which Telecom submits should not be disclosed to the claimants in order to protect the privacy of those customers, and because information specifically relating to them is not directly relevant to the claimants' claims.

Other than that, Telecom has no objection to providing copies of these files to a claimant in accordance with a direction from you under the arbitration procedure.

Yours sincerely

Paul Rumble
GROUP MANAGER
CUSTOMER RESPONSE UNIT

95 M33987

File Strategic

Telecom AUSTRALIA
Commercial & Consumer
Customer Response Unit
Level 8
242 Exhibition Street
Melbourne Victoria 3000

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

13 September 1994

Dr Gordon Hughes
Hunt & Hunt

Facsimile No. (03) 614 8730

Dear Sir

Fast Track Arbitration - Smith

I refer to my letter of 25 August 1994 concerning Mr Smith's request for "*all raw data associated with the Bell Canada testing*", and your reply later that day.

Telecom received a letter from Mr Smith on 28 August 1994, which indicates Mr Smith is under the impression that the raw data relating to the Bell Canada testing is "*on its way from Canada*", presumably for release to him. I enclose a copy of Mr Smith's letter and Telecom's reply.

Telecom has not received any direction from you to supply any of Bell Canada International's documents to Mr Smith or any other claimant. Telecom requests that you clarify the status of Mr Smith's request.

Yours faithfully

Paul Rumble
NATIONAL MANAGER
CUSTOMER RESPONSE UNIT

L68979

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I would clarify that I have openly stated since July of 1994 I believe my telephone service has been much better. I would have had only three or four complaints at best in that period of two months.

(b) The documentation has recently been submitted to the Arbitrator. Telecom can check the details in relation to short duration calls from my accounts. I would also suggest that Telecom check their own fault reports up until June of 1994 for the numbers 132999 and 1100.

2. In relation to page 5:

The Claimant has stated that the Austel report, the Senate Committee References in relation to this matter, the Coopers & Lybrand report and the Bell Canada International report all advise that Telecom's testing may not have been able to identify the problems that the Claimant was allegedly experiencing with his telephone service.

(a) State where in the Austel report, the Senate Committee References, the Coopers & Lybrand report and the Bell Canada International report all advise that Telecom's testing may not have been able to identify the problems that the Claimant was allegedly experiencing with his telephone service.

Answer Question 2:

L69156

Mr Arbitrator, I would refer you to Page 5 of my initial Report where I state that I rely upon your understanding of the Austel Report into the COT Cases, the Senate Committee references in relation to this matter, the Coopers & Lybrand Report and the Bell Canada International Report in respect to the monitoring/testing of fault problem in the network. I would consider that this arbitration procedure would rely upon such references and identify the areas. I note that Telecom have chose to play on words stating that the Austel Report, the Senate Committee references in relation to this matter, the Coopers & Lybrand Report and the Bell Canada International Report all advise that Telecom's testing may not have been able to identify the problems that the Claimant was allegedly experiencing with his telephone service. Notwithstanding this and without dissecting

14. In relation to page 34:

The Claimant has stated that the management of Telecom had no desire to admit their inability to locate and properly fix the problems that the Claimant was experiencing with his telephone service.

(a) State the basis upon which it is alleged that the management of Telecom had no desire to admit their inability to locate and properly fix the problems that the Claimant was experiencing with his telephone service.

Answer Question 14:

(a) The basis upon which is alleged the management of Telecom had no desire to admit their inability to locate and properly fix the problems that I was experiencing with my telephone service is simply the experience and the documents I have detailed on Page 34 onwards to 39 inclusive of my letter of claim. I am sure that the reading of this particular area too would leave you in no doubt as to the management of Telecom's desires of how to treat my problems. Simply explained, all of these references contained within the pages show that Telecom management failed to acknowledge the problems that I was having with my phone. If this does not indicate a lack of desire to admit to the inability to locate and properly fix the problems, then I am left wondering. You see if Telecom had the ability to locate and properly fix my telephone problem, one would consider that since we know from Telecom's own document attached to these interrogatories marked 8A & B that these problems existed since 1987 and were filed by Telecom since 1987, one would consider that the ability to locate and properly fix the problem may have occurred by at least 1988. I believe that all of the documents I refer to the in pages that I have previously mentioned demonstrate that the management of Telecom would not admit the size of the fault problems and therefore demonstrated in my opinion no desire to admit their inability to locate and properly fix the problem that I was experiencing with my telephone service.

L69169

We have cover up of lies on faults found by Telecom, yet local staff down play faults. Example 13 October 1992, ELMI was connected to RCM and registered four calls not getting to camp, yet local staff said no ELMI was connected when it was. Short duration

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calls were known to be affecting this business, in 1992, 1993, evidence has been presented in second submission, yet Telecom have not produced raw data to substantiate this.

(I throw a fly in the ointment) Telecom, you produce the raw data ELMI for a period I know I can prove you covered up faults. I will side step 13 October 1992 this is a fact, you lied, lied and covered up. 28 October 1992 produce this raw data to the resource team and I shall prove calls came in as answered but they were not. Go on, prove I am wrong. If I am right, then you produce all raw data that I have asked for, including Bell Canada, If I am wrong, then let the Assessor decide and make a judgement for 1992. The ball is in your court. This was the only testing I happened to view, much was done in the RCM. We have short duration calls in 1993, show the Assessor these.

Page 17 Cape Bridgewater (1) Bruce Pendelbury. Tony Watson. Probably caused by RCM? What was caused what? by the RCM. Perhaps the Resource Team DMR should be told.

Again, ELMI testing denied the truth about this equipment being connected to these premises.

Again, Steve Richards, 1100. Read his statement, page 32 C/W (1). Telecom were using a M.C.T. even after Dave Stockdale knew that this type of device was interfering with calls being jammed, or not getting through. This equipment was supposed to be disconnected on the 9 August 1993, yet my fax line was still with this device a month later.

15. In relation to page 38:

The Claimant has stated that five lines service the Cape Bridgewater area and these five lines service both incoming and outgoing calls.

L69170

(a) State the basis upon which it is alleged that five lines service the Cape Bridgewater area and that these five lines service both incoming and outgoing calls.

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FAX FROM: ALAN SMITH
C. O. T.

DATE: 18.9.94

FAX NO: 055 267 230

PHONE NO: 008 816 522

NUMBER OF PAGES (including this page)

FAX TO: MR JOHN WYNACK
INVESTIGATING OFFICER
COMMONWEALTH OMBUDSMAN'S OFFICE
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 knew 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. Warwick L. Smith, Telecommunication Industry Ombudsman.

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Hunt & Hunt
LAWYERS

21 September 1994

Our Ref: GLH:CF
Matter No:
Your Ref:

FACSIMILE 634 8441
Mr. Paul Rumble
National Manager - Customer Response Unit
Telecom Australia
Level 8
242 Exhibition Street
MELBOURNE Vic 3000

Dear Mr Rumble

ARBITRATION - SMITH

I acknowledge receipt of your letter dated 13 September 1994.

I confirm I have not directed the production by Telecom of any Bell Canada International documents.

At this stage I would be encouraging Mr Smith to defer any requests for discovery until Telecom's defence documents have been submitted.

Yours sincerely

GORDON HUGHES

cc. A. Smith, W. Smith, P. Bartlett, J. Rundell

L69201

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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Telecom AUSTRALIA

3 October 1994

COMMERCIAL AND CONSUMER
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8/242 EXHIBITION STREET
MELBOURNE
VICTORIA 3000
Australia
Telephone (03) 634 5736
Facsimile (03) 634 9930

622700

Mr G. Schorer
Golden Messenger
405 Queensberry Street
NORTH MELBOURNE VIC 3051

RE: MEETING WITH THE ARBITRATOR

Dear Mr Schorer

I refer to discussions with Mr Alan Smith on 3 October 1994. Mr Smith advised me that he understood the Arbitrator had indicated his availability to convene a meeting between Telecom and Mr Smith, Mrs Garms and yourself.

Subject to the confirmation of the consent and availability of the Arbitrator I confirm my agreement to meet with him, Mr Smith, Mrs Garms and yourself on Wednesday 5 October 1994, or such other date as the Arbitrator is available. I will confirm with the Telecommunications Industry Ombudsman arrangements for the reimbursement of travel expenses for Mrs Garms and Mr Smith.

The Arbitrator will determine the format of the meeting, which topics will be dealt with in joint session and which topics are more appropriately dealt with on an individual basis. The purpose of the meeting is to address the means by which these Arbitrations may be progressed promptly. In particular the meeting will focus on issues relating to the production of documents both by Telecom and between the parties.

Yours faithfully

Steve Black
GROUP GENERAL MANAGER
CUSTOMER AFFAIRS

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four trips which have been paid for by Telecom or the TIO or Austel?---That's only since - in 1993, yes.

I guess there are some questions as to whether these trips were claimed on Telecom - and the more information Mr Smith provides, I guess the better his claim stands up. But we're prepared to let it run as it stands.

THE ARBITRATOR: Mr Smith, if there is any information you can provide me this week, please provide it?---All right.

Beyond that we will just proceed on the basis of the assertions that you have made and if Telecom wishes to respond by saying that those assertions can be sustained then it's a matter for me to make up my mind as to where I think the truth lies?---Okay.

Final page, final question. "Documents provided do not address the documents requested in Telecom's letter dated 30 August 1994. Please provide copies of any missing documentation which should have been enclosed in the document headed with the following table." Can you find that document?---Yes, I know which one it is. Sue, if you can bring them over and I will show you.

Which document do you have there?---[redacted].

The document referred to on p.8 of Telecom's request for further information, in point B 1A is my document AS4, okay?---Right. The deletion of one is incorrect charging by Peter Turner. I believe that the documentation I would receive because of the time within that 4 months I asked for them from Telecom, that's the only reports I have been able to substantiate - I pre-empted. So you can draw that one out because although it's in I didn't get the print-out to marry up. The incorrect charging is once again - I put this

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through and I was pretty stressful when I put it through but it does marry up. For instance, if you look at 1993 this is the smart 10-minute analysis print-out. If you go to here in this B12, what you have really got to do is use your own judgment. You will see 1993, these are my itemised accounts, right. If you cheque my itemised accounts you will see the figuring there - 5 seconds, 7 seconds, 14 seconds, 13 seconds, 10 seconds. All those are seconds, right. Now, what you have got to do is - these are minutes and seconds. Like, 13 minutes you charge $4.62. Let's just take the 13 minutes, for instance. You go to 1993 and you check the date. That's all you have to do, the exact date, which is 8/6/93. You check the phone number which is the phone number on the chart and you will see 37 seconds. But you go to here and you find it's 47 seconds. Not one of them - not one of them - is correct. I'm being charged as much as 11 seconds 94, so I'm charged 4 seconds. Here it runs for 32,000 seconds - I have been charged 148 seconds. Here is 162 seconds, right, and I'm charged for 37. That's Telecom's way. If you go to the next page and it's all their way. You get 16 seconds which is the charging on the sheet and yet I have been charged for 23; 17 seconds on here and I have been charged for 25. I will find another one here - 43 seconds on the chart and that's the element that all this is based on, that's all your bills are based on, and I'm charged for 53 seconds. It just goes on and on. So that's how you can substantiate it right the way through.

So where does that leave us in relation to the provision of

THE ARBITRATOR: I don't think we need any further examples. I accept that. Telecom, any further submissions?

MR BLACK: Just on those points, I accept that they can be matched up but each one appears to require special knowledge to match it up?---I'm only a layman. I can do it and I'm sure your technical people can do it. I know you can it's just that you have photocopied bits and pieces and put them together?---I didn't photostat it. That's all your stuff. The only thing I photostated was that it's the 11008 and to make it a bit easier I put it on that docket. I'm sure your technical people can pick that up.

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THE ARBITRATOR: It might be appropriate to do that or it might be appropriate for DMR to - - -

MR BLACK: Perhaps that would be just as good from our perspective.

THE ARBITRATOR: That seems to bring us to the end of that process. Before we all pack up and go home let's just recap where we are. Except for the issue of the status or possible status of former partners, it seems to me that any further documentation to be provided can be and will be provided by 14 October subject to certain third parties co-operating with you?---The thing is, Dr Hughes, I provide them to you under some sort of supervision. I'm not Telecom-bashing but I have so much proof - and which has been shown to other parties - where the security of Telecom has got a lot to be desired and I'm now going to - they know who I ring,

any missing documentation?---I thought it was all there. It's just that you have got to marry it up. Does Telecom have any questions in relation to that?

MR BLACK: The one table I had to marry up with Bil. What was the second table?---You marry it up with the 93 itemised account. The thing is, the next one is the 008 account. What I have done here, for instance, that is a copy - that's my itemised account from gold phone. You will come up here with - I have been charged for 17 seconds and yet it actually rang for 12 seconds. Here on their charging sheets, the conversation time, you will see 12 seconds. But when you check up on my gold phone I have been charged for 1 minute and 42 seconds and yet it was only a 12-second conversation. We go one down again - this is at all times, the same phone numbers, right, and the same time coming in - you check the CCS data again and it has registered 10 seconds, same time, yet I have been charged 1 minute and 4 seconds. It goes right the way through. I have 7 minutes where I have only been on the phone for 1 minute and I can substantiate - I have only just done that in one book but I probably get 30. I have 7 seconds where I have been charged for 4 minutes. The instance that's on the video which is in here where that Heidi lady, the 1100 operator, rang me. She has verified that she was only on the phone for 10 seconds and I was charged for 4 minutes and 15 seconds. I can substantiate that, not only here, but all the other documentation. I can substantiate it. I have had a fellow look at it. It's all here. Then you go to the 267230 account which is - - -

---Correct.

And you do not wish to comment on it further?---Correct.

Telecom raises the point or makes the assertion that, "This is a very serious allegation and Telecom is therefore entitled to request further particulars." If I can ask a preliminary question, is this allegation relevant to your claim for compensation against Telecom? If it's not, the most expedient way of dealing with it might be to - - -?---Right, let it go.

Let it go?---Right, let it go.

Telecom, are you content with that resolution of this issue?

MR BLACK: If I understand it correctly, what you're saying is it's not relevant to the claim.

THE ARBITRATOR: My interpretation of what Mr Smith is saying - Mr Smith will correct me if I'm wrong - is that he does not seek to base his claim in any way on the allegation that his phones have been unlawfully tapped.

MR BLACK: Okay. I understood from what you said before that it's not relevant.

THE ARBITRATOR: Yes. What it means - and again I make sure Mr Smith understands what it means - is that effectively any reference in your claim documents to date regarding unlawful phone tapping will be treated by me and the resource unit as unsubstantiated and therefore not relevant for the purpose of determining whether you're entitled to compensation?---All right. No, I will go on to that then. I will go on to that - no, I will leave it in the claim because - - -

You understand if you leave it in the claim, Telecom is entitled to ask what is the basis for this allegat.

---Right, okay, yes, all right.

L65...J

So you want to leave the allegation in?---I will leave the allegation in.

Can you provide further substantiating evidence?---I can provide documentation from Austel, that sent me a letter, stating the fact that my phones were listened to. A little bell used to ring every time somebody used to ring me. That bell used to ring for 3 months on end. I have come up with other evidence that Telecom still hasn't been able to answer and it's called a malicious trace call, an MTC, that was on my line 3 months or 2 months after apparently Telecom told the Federal Police that that other device, which was called an MTC, was taken off my line. So I don't know whether the second one is also - what would you say - a bugging device or whatever. I can't verify that. But I know a malicious call trace - - -

If I may interrupt, you said in relation to that second point that you could come up with evidence to that effect?

---Well, I can come up - - -

What sort of evidence?---It's clearly in the submission that there is evidence. It's written by Telecom and it states that - where it is, I'm not quite sure now. It clearly states that, "Mr Smith's phones for 3 months from June to August 1993, a little bell used to" - it doesn't say it like that, but that's how I see it. But it does - a machine device rang and the technician used to go and listen and make sure the phones were okay or whatever and then go about his work. Now, I have spoken to this Telecom technician. I have sent him a letter. I have spoken to my local police for every time I have contacted him because I know that Telecom would say I'm

should be able to come up with and tell me what - you know - - -

If I can stop you there. That's not the point of this hearing today?---No, fair enough. Like I said - - -

I'm trying to ensure that all the materials available in support of your claim is put before Telecom and before me?---All right, okay.

Any further material that you believe is relevant to substantiate your allegation in relation to unlawful phone tapping should be supplied to me by 14 October? ---Right.

MR BENJAMIN: Mr Arbitrator?

THE ARBITRATOR: Yes.

MR BENJAMIN: I'm sorry.

THE ARBITRATOR: I was going to ask you if you had any further questions in relation to that item.

MR BENJANIN: Just in respect of item 4 of the schedule 1 at p.2, Mr Smith has not provided any further details in respect of that particular question. So I take it then that he has nothing further to - - -

THE ARBITRATOR: The particular question being?

MR BENJAMIN: In respect of Detective Superintendent Penrose.

MR BLACK: There has been an allegation that Detective Superintendent Penrose says that the Plummers' telephone was allegedly unlawfully tapped?---I believe Telecom is playing on words - the word "illegally tapped" - it's like asking me - I'm not a - - -

THE ARBITRATOR: Sorry, if I can interrupt both of you, the issue here is that in your answers - your answer to question 24, you indicate that you were told something by Detective Superintendent Penrose?---Yes.

Is there any documentation to support that statement or is there any other light that you can shed upon that statement you have made in relation to Detective Penrose? ---Well, it's like the defence counsel talking to the guilty. I have been spoken to - I mean, there is a - - - Again I will interrupt. If the answer is simply that Detective Penrose told you this and you can't say anything more - - -?---That's right.

- - - and that's your answer, that's all you have got to say?---That's right.

Simply, we're trying to clarify the status of the statement? ---Yes, right. I have spoken to Detective Penrose on two occasions and he has stated that my phones had been listened to.

Approximately when did you speak to Detective Penrose? ---2 weeks ago and 4 months ago at my premises.

MR BENJAMIN: If I can just make the point that Mr Smith is saying his phones have been listened to which is again somewhat different from what was stated here?---All right. At no time did Telecom ask my permission to listen in on my private phone calls.

THE ARBITRATOR: I think that is as much information that's going to be available in relation to that item. We now move on to claim documents submitted by the claimant on 18 August 1994. Can someone just clarify - where is this documentation? Whilst we're looking for the material to which this request refers, I note that Telecom is referring to a table consisting of five columns that was submitted by Mr Smith on 18 August 1994 and essentially Telecom are seeking a clarification of the meaning of that table. I think all of us would like

Hunt & Hunt
LAWYERS

28 June 1994

Our Ref: GLH
Matter No:
Your Ref:

Mr Paul Rumble
National Manager - Customer Response Unit
Telecom Australia
8th Floor
242 Exhibition Street
Melbourne VIC 3000

Dear Mr Rumble

ARBITRATION - SMITH

I enclose a video forwarded to me by the claimant together with correspondence providing background information relevant to the video. This correspondence takes the form of a letter to me dated 21 June 1994 plus five enclosures.

Yours sincerely

GORDON HUGHES

Encl

cc A Smith, P Bartlett, W Smith

000647

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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Hunt & Hunt
LAWYERS

[redacted]

20 July 1994

Our Ref: GLH
Matter No:
Your Ref:

BY FAX: 634 8441

Mr Paul Rumble
Group Manager - Customer Response Unit
Level 8
242 Exhibition Street
Melbourne VIC 3000

Dear Mr Rumble

ARBITRATION - SMITH

I have considered the matters raised in your letter of 11 July 1994.

Videotape

The videotape in question contains an interview with the Claimant. He is asked questions by an unidentified interviewer. The interviewer's questions are minimal, barely audible and are effectively only prompts for a commentary by the claimant. The commentary essentially amounts to a taped oral statement concerning the events detailed in the claimant's letter to me dated 21 June 1994, a copy of which has been passed on to you.

You have submitted that the video is inadmissible on the basis that the Fast-Track Arbitration Procedure does not contemplate evidence in the form of videotapes and that, even if such evidence were allowed, the video contains evidence which is not provided on oath or affirmation as is required in the case of oral submissions.

Clause 6 of the Fast-Track Arbitration Procedure provides that arbitration will be on documents and on written submissions only (unless the arbitrator otherwise specifies). Written evidence must be in the form of affidavit or statutory declaration. Oral evidence must be in the form of oath or affirmation and certain procedural requirements are to be followed. I do not believe the parties addressed their minds to the admissibility or otherwise of videotape evidence when negotiating the arbitration rules.

000521

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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.

I see no reason why the video should not be admissible as evidence, subject to appropriate conditions. I consider the video should be treated in the same manner as written evidence, not oral evidence.

With respect of the admissibility of videotapes per se, I consider they should be accompanied by an affidavit or statutory declaration by the Claimant as to:

(a) the truth of statements made by the Claimant;

(b) the origins of the videotapes, and

(c) (where relevant) the accuracy of the representations of facts and circumstances contained in the videos.

I am not concerned, in this instance, by the lack of identification of the interviewer but any assertion of fact by the interviewer would not be admissible unless supported by affidavit or statutory declaration. This is not an issue here.

I accordingly direct as follows:

1. That the video is admissible as evidence in these proceedings and shall be treated in the same manner as written evidence.

2. That the Claimant must provide an affidavit or statutory declaration as to:

   (a) the accuracy of the statements made by him in the video;

   (b) the origin of the video.

Written Evidence of the Video

Clause 6 requires that "all written evidence shall be in the form of an affidavit or statutory declaration". You have drawn my attention to the fact that the claim as submitted by Mr Smith does not comply with this requirement. I accordingly direct that this deficiency must be rectified before the claim can be regarded as having been properly submitted.

As the Claimant has indicated that he will shortly be submitting further material in support of his claim, and as he has further indicated that he will shortly be in a position to confirm that the submission of all material in support of his claim is complete, it would be expedient for the claimant to

defer providing the appropriate affidavit(s) or statutory declaration(s) until the time of submission of his final documentary evidence.

Yours sincerely

GORDON HUGHES

CC A Smith, W Smith, P Bartlett

PRIVATE &
CONFIDENTIAL

MEMORANDUM DRAFT

TO : Warwick Smith

FROM : Susan Hodgkinson

DATE : 30 March 1995

SUBJECT : Telecom - Points of Interest

You have asked for an overview of Telecom's approach to the COT claims. I have used Alan Smith's claim as an example and if you require a similar review done of the Garms and Gillan/Valkobi claim, I can complete one.

ALAN SMITH, CAPE BRIDGEWATER HOLIDAY CAMP ("CBHC")

Documents Provided

Alan Smith's claim has been presented in a fairly haphazard manner. He has included volumes of documents and the direct relevance of all this information is difficult to ascertain. Nonetheless, Smith has gone to a lot of trouble to assemble his FOI information which, as you may be aware, was not provided in full by Telecom until 23 December 1994. To support his claim, Smith has engaged experts, including George Close and Associates (technical) and DM Ryan Accountants (financial). Smith has provided a detailed, well set out reply to Telecom's defence.

Telecom has provided a very detailed submission with the main documents including:

- Principal submission
- Legal submission (one volume of appendices)
- Technical Report (five volumes of appendices)
- Deloitte Touche Thomatsu Report (Financial Report)
- Overview document - providing background information of Telecom Australia
- Telecom Australia's Networking and Management Philosophy

Progress of Fast Track Arbitration Process

- On 21 April 1994 Smith signed his Request for Arbitration.
- On 25 July 1994, Smith lodged his claim documents.
- Delays from July 1995 to December 1994 include:
  - detailed request for further particulars by Telecom
  - an oral hearing to settle request procedures

- Smith continued to "drip feed" lodgement of his claim documents based on the fact that Telecom "drip fed" his FOI request (this culminated in a complaint to the Commonwealth Ombudsman and subsequent FOI review by Telecom).
- Smiths claim was formally certified as complete in November 1994.
- On 25 November 1994, Telecom requested a two week extension to deliver their defence and this was granted.
- On 13 December 1994, Telecom delivered its defence to the Arbitrator.
- Smith has stated verbally to myself, that on 23 December 1994, he received 90 kilograms of FOI material. As his claim was "finalised" he did not have the ability to examine these documents and add to his claim.
- On 25 January 1995 Smith lodged his reply to the Telecom defence.

EXTRACTS OF TELECOM'S DEFENCE

Principle Submission

(A) Opening submission

- The total amount claimed by Smith of $3.24 million is 11.5 times the 1988 purchase price of $280,000 and represents 30 years of profit based upon a generous 30% return on investment.
- Claim documents submitted are in no apparent sequence or order.
- No where in the claim documents is there a statement, allegation or claim setting out the basis of any alleged legal responsibility which Telecom may have to the claimant in respect of provision of telecommunications service.
- Most of the allegations are unsubstantiated and many are not verified by statutory declaration.
- Smith has relied upon records kept in his diaries as his primary record of complaints.
- The magnitude of faults complaints reported is unsubstantiated and appears overstated.
- Of the few faults which occurred, most were trivial or short lived due to prompt rectification by Telecom.
- Those faults that did occur, many were due to misuse of telephone and associated equipment by the claimant or customers of CBHC.
- Of the 58 customers (66 by August 1991) connected to the Cape Bridgewater telephone exchange, only Smith has had a significant level of fault complaints. Is it virtually impossible that faults at this exchange can effect the claimant only.

FERRIER HODGSON CORPORATE ADVISORY

BY COURIER

Our Ref:A1.4

15 November 1995

Mr John Pinnock
Telecommunications Industry Ombudsman
TIO Limited
321 Exhibition St
MELBOURNE VIC 3000

Dear Sir,

RE : Telecommunications Industry Ombudsman - Resource Unit
Fast Track Arbitration - Alan Smith

We refer to your letter dated 9 November 1995 with the attached facsimile from Mr Alan Smith dated 8 November 1995, and your recent conversations with Ms Susan Hodgkinson of this office concerning the above completed arbitration.

You have asked us to provide clarification of the issue raised by Mr Smith relating to the deletion of references to a potential addendum on possible discrepancies in Smith's Telecom bills in the final Technical Evaluation Report. We have spoken to Lane Telecommunications Pty Ltd ("Lanes"), who acted as Technical Consultants to the Resource Unit in the above Arbitration, and they have provided the following comments in relation to the issue raised by Mr Smith:

"At a late stage of the Arbitration process, at the time of preparation of the Technical Evaluation Report, there was discussion about billing issues which had been raised by Mr Smith. A draft of the Technical Evaluation Report therefore included reference to the billing matters, which it was thought might require further work beyond the time of issue of the Report.

The primary matter concerned Mr Smith's bills for outgoing calls from Cape Bridgewater. Mr Smith had observed that there was a discrepancy between the call durations of STD calls on his bills and the durations shown by Telecom's call recording equipment connected to Mr Smith's line (in the Customer Access Network).

Discussions were held with Telecom (Mr Peter Gamble) in Mr Smith's presence during the visit to Cape Bridgewater in April 1995, which provided the following information:

- *For outgoing calls on a normal customer exchange line, the caller notes the answer of the called party by cessation of the ring tone and the answering voice. However, there is no corresponding physical (electrical) signal on the caller's line (CAN side of the exchange) for the call recording equipment to register that an answer has occurred. Consequently, timing of the call recording equipment is configured to allow a fixed time to answer (say 30 seconds) from the time the caller lifts the handset, or from the completion of dialling, until it assumes that answer has taken place. Thus the overall measured duration of the call from lifting to replacement of the handset is reduced by this fixed amount to give the (assumed) nominal conversation time.*

- *Billing on the other hand is based on signals recorded at the caller's exchange, including a physical signal to indicate called party answer. Thus the billing duration is precise.*

- *At an individual call level, there will therefore be discrepancies between the two sets of call duration records except where the actual and assumed times to answer are the same.*

- *Lanes considered and accepted this technical explanation from Telecom as plausible, and believe Mr Smith also understood and accepted it. Consequently, as the discussion appeared to have resolved this matter, it was not included in the formal Technical Evaluation Report.*

A second matter involved 008 calls. Again, this matter was current at a late stage (April 1995) of the Arbitration process. This matter concerned possible overlap in the records of 008 calls made to Mr Smith, and for which he was billed. However, Lanes and DMR Group Inc concluded that the level of disruption to Mr Smith's overall service was not clear, and that it was unlikely that further work would clarify the matter to the extent that it would have a measurable effect on the Arbitrator's determination. The matter was discussed in Section 2.23 of the Technical Evaluation Report, and an assessment of "Indeterminate" was reached.

As no further progress was likely to be made on these matters, the formal version of the Technical Evaluation Report did not leave the billing issue open."

I trust that the above advice from Lane Telecommunications clarifies the issue raised by Mr Smith regarding the Resource Unit's Technical Evaluation Report.

If you have any further queries please do not hesitate to contact the writer or Ms Susan Hodgkinson on (03) 629 8855.

Yours faithfully,
FERRIER HODGSON CORPORATE ADVISORY

JOHN RUNDELL
Project Manager
Associate Director

cc Dr Gordon Hughes, Hunt & Hunt
Mr Andrew Crouch, Lane Telecommunications Pty Ltd
Mr Paul Howell, DMR Group Inc

four trips which have been paid for by Telecom or the TIO or Austel?---That's only since - in 1993, yes.

I guess there are some questions as to whether these trips were claimed on Telecom - and the more information Mr Smith provides, I guess the better his claim stands up. But we're prepared to let it run as it stands.

THE ARBITRATOR: Mr Smith, if there is any information you can provide me this week, please provide it?---All right.

Beyond that we will just proceed on the basis of the assertions that you have made and if Telecom wishes to respond by saying that those assertions can be sustained then it's a matter for me to make up my mind as to where I think the truth lies?---Okay.

Final page, final question. "Documents provided do not address the documents requested in Telecom's letter dated 30 August 1994. Please provide copies of any missing documentation which should have been enclosed in the document headed with the following table." Can you find that document?---Yes, I know which one it is. Sue, if you can bring them over and I will show you.

Which document do you have there?---[redacted].

The document referred to on p.8 of Telecom's request for further information, in point B 1A is my document AS4, okay?---Right. The deletion of one is incorrect charging by Peter Turner. I believe that the documentation I would receive because of the time within that 4 months I asked for them from Telecom, that's the only reports I have been able to substantiate - I pre-empted. So you can draw that one out because although it's in I didn't get the print-out to marry up. The incorrect charging is once again - I put this

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through and I was pretty stressful when I put it through but it does marry up. For instance, if you look at 1993 this is the smart 10-minute analysis print-out. If you go to here in this B12, what you have really got to do is use your own judgment. You will see 1993, these are my itemised accounts, right. If you cheque my itemised accounts you will see the figuring there - 5 seconds, 7 seconds, 14 seconds, 13 seconds, 10 seconds. All those are seconds, right. Now, what you have got to do is - these are minutes and seconds. Like, 13 minutes you charge $4.62. Let's just take the 13 minutes, for instance. You go to 1993 and you check the date. That's all you have to do, the exact date, which is 8/6/93. You check the phone number which is the phone number on the chart and you will see 37 seconds. But you go to here and you find it's 47 seconds. Not one of them - not one of them - is correct. I'm being charged as much as 11 seconds 94, so I'm charged 4 seconds. Here it runs for 32,000 seconds - I have been charged 148 seconds. Here is 162 seconds, right, and I'm charged for 37. That's Telecom's way. If you go to the next page and it's all their way. You get 16 seconds which is the charging on the sheet and yet I have been charged for 23; 17 seconds on here and I have been charged for 25. I will find another one here - 43 seconds on the chart and that's the element that all this is based on, that's all your bills are based on, and I'm charged for 53 seconds. It just goes on and on. So that's how you can substantiate it right the way through.

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So where does that leave us in relation to the provision of

7

THE ARBITRATOR: I don't think we need any further examples. I accept that. Telecom, any further submissions?

MR BLACK: Just on those points, I accept that they can be matched up but each one appears to require special knowledge to match it up?---I'm only a layman. I can do it and I'm sure your technical people can do it.

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And you do not wish to comment on it further?---Correct.

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Let it go?---Right, let it go.

Telecom, are you content with that resolution of this issue?

MR BLACK: If I understand it correctly, what you're saying is it's not relevant to the claim.

THE ARBITRATOR: My interpretation of what Mr Smith is saying - Mr Smith will correct me if I'm wrong - is that he does not seek to base his claim in any way on the allegation that his phones have been unlawfully tapped.

MR BLACK: Okay. I understood from what you said before that it's not relevant.

THE ARBITRATOR: Yes. What it means - and again I make sure Mr Smith understands what it means - is that effectively any reference in your claim documents to date regarding unlawful phone tapping will be treated by me and the resource unit as unsubstantiated and therefore not relevant for the purpose of determining whether you're entitled to compensation?---All right. No, I will go on to that then. I will go on to that - no, I will leave it in the claim because - - -

You understand if you leave it in the claim, Telecom is entitled to ask what is the basis for this allegat.

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So you want to leave the allegation in?---I will leave the allegation in.

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should be able to come up with and tell me what - you know - - -

If I can stop you there. That's not the point of this hearing today?---No, fair enough. Like I said - - -

I'm trying to ensure that all the materials available in support of your claim is put before Telecom and before me?---All right, okay.

Any further material that you believe is relevant to substantiate your allegation in relation to unlawful phone tapping should be supplied to me by 14 October? ---Right.

MR BENJAMIN: Mr Arbitrator?

THE ARBITRATOR: Yes.

MR BENJAMIN: I'm sorry.

THE ARBITRATOR: I was going to ask you if you had any further questions in relation to that item.

MR BENJAMIN: Just in respect of item 4 of the schedule 1 at p.2, Mr Smith has not provided any further details in respect of that particular question. So I take it then that he has nothing further to - - -

THE ARBITRATOR: The particular question being?

MR BENJAMIN: In respect of Detective Superintendent Penrose.

MR BLACK: There has been an allegation that Detective Superintendent Penrose says that the Plummers' telephone was allegedly unlawfully tapped?---I believe Telecom is playing on words - the word "illegally tapped" - it's like asking me - I'm not a - - -

THE ARBITRATOR: Sorry, if I can interrupt both of you, the issue here is that in your answers - your answer to question 24, you indicate that you were told something by Detective Superintendent Penrose?---Yes.

Is there any documentation to support that statement or is there any other light that you can shed upon that statement you have made in relation to Detective Penrose? ---Well, it's like the defence counsel talking to the guilty. I have been spoken to - I mean, there is a - - -

Again I will interrupt. If the answer is simply that Detective Penrose told you this and you can't say anything more - - -?---That's right.

- - - and that's your answer, that's all you have got to say?---That's right.

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Approximately when did you speak to Detective Penrose? ---2 weeks ago and 4 months ago at my premises.

MR BENJAMIN: If I can just make the point that Mr Smith is saying his phones have been listened to which is again somewhat different from what was stated here?---All right. At no time did Telecom ask my permission to listen in on my private phone calls.

THE ARBITRATOR: I think that is as much information that's going to be available in relation to that item. We now move on to claim documents submitted by the claimant on 18 August 1994. Can someone just clarify - where is this documentation? Whilst we're looking for the material to which this request refers, I note that Telecom is referring to a table consisting of five columns that was submitted by Mr Smith on 18 August 1994 and essentially Telecom are seeking a clarification of the meaning of that table. I think all of us would like

FAX FROM:	ALAN SMITH C. O. T.	DATE:	2.10.94
FAX NO:	055 267 230		
PHONE NO: 008 816 622		NUMBER OF PAGES (including this page)	1

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

Dear Mr Benjamine,

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
Cliff Matherson, Austel Melbourne
Dr. Gordon Hughes, Hunt & Hunt, Lawyers, Fast Track (Arbitrator)

FAX FROM: ALAN SMITH
C. O. T.

DATE: 10.10.94

FAX NO: 055 267 230

PHONE NO: 008 816 522

NUMBER OF PAGES (including this page) 1

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

Dear Mr Benjamine,

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. Benjamine, 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 employee 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

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. Gamble 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.

28/1/94	Free-Hill - Letter - Cape Bridge		FOI	1
30/11/93	Telecom - Draft		FOI	2
1/4/93	Letter - Outreach		"	3
22/6/93	Telecom Acknowledgement That Certain *AXC Customers Experience Difficult* Network Faults		FOI	4
5/11/93	Telecom - Minute - RCM	2 Fault	FOI	7
28/4/94	Telecom Minute - RCM	1 Fault	FOI	8
28/3/94	Telecom Minute - RCM	1 Fault	FOI	9
24/3/94	Telecom Minute - RCM	2 Fault	FOI	11
13/4/93	Letter Loreto College		—	13
4/12/93	Telecom - Fault Record	1Fault	FOI	14
1/3/94	Telecom Fault Report - RCM	1Fault	FOI	15
9/8/93	Telecom Fault Report - RCM	9 Fault	FOI	16
9/2/93	Telecom Report - RCM (Faults for 3mths)		FOI	17
2/6/93	Telecom Fault Report - RCM + Congestion + RVA	3 Fault	FOI	18
30/1/94	Telecom Graph - RCM	1 Fault	FOI	19
	J.T.M. International Marketing Mr Smith's Belief of a Very Lucrative Businees Venture Lost Through an Inadequate Phone Service		—	20
31/3/94	Telecom Memo - Congestion	3 Fault	FOI	22
31/3/94	Telecom Memo - Congestion	?	FOI	22a
10/3/94	Telecom Memo - Congestion + Fax	7 Fault	FOI	23

28/2/94	Teecom Memo - Congestion	1 Fault	FOI	24
29/3/94	Telecom Memo + Congestion 10%	1 Fault	FOI	25
2/4/94	Telecom Memo - Congestion	1 Fault	FOI	26
8/4/94	Telecom Memo - Congestion	1 Fault	FOI	27
7/4/94	Telecom Memo - Congestion 30%	?	FOI	28
16/6/93 to 29/6/93	Telecom Fault Report - Busy + RVA + Congestion - 1 Burst - Weird - Answer	12 Fault	FOI	29
22/7/92	Telecom Fault Record - (RVA 5 Faults) (CONGESTION 1153 Faults)	?	FOI	30
18/6/93	Fax (60 minutes TV) - Congestion - 008	2 Fault	----	31
22/5/93	008 Account - Incorrect Billing	?	----	32
22/5/93	008 Account - Re Above Customer Letter	2 Fault	----	32a
18/7/94	008 Account - Incorrect Billing	14 Fault	----	33
2/2/94	008 Account - Incorrect Billing	4 Fault	----	34
26/4/94	008 Account - Incorrect Billing	7 Fault	----	35
16/2/94	008 Account - Incorrect Billing	6 Fault	----	36
17/6/94	008 Account - Incoorect Billing + RVA	16 Fault	----	37
29/11/93	Telecom - Incorrect Billing Ann Garms / Alan Smith Re Fax Monitoring Smith's Premises by Telecom - 20 Incorrect Charges to Ann Garms Whilst Fax Was in Use By Telecom - Also Telecom Data Incorrect To Smith's Data 15 Compared to 20	20 Fault	FOI	38/44
17/8/93	Daylesford 5 Incorrect Calls	7 Fault ?	FOI	45

9/8/93	2 1/4 Lockup Acknowledged - Telecom	1 Fault	FOI	47
9-18/8/93	Telecom 7 day CONFUSION	3 Fault?	FOI	48
31/8/93	Telecom Corp Sec - Will Not Admit 1100	5 Fault	FOI	50
18/8/93	Unsuccessful Test Calls to Bridgewater	63 Fault	FOI	51
5/1/94	Incorrect Charging	3 Fault	FOI	52
12/5/94	Incorrect Charging	1 Fault	FOI	53
27/5/94	2 RVA 008 a/c - Incorrect Charging + Incorrect CCAS Monitoring	2 Fault	FOI	55
4/10/93	Continued Problems Connecting 267267 Network Faults MELU Exchange Incorrect 17/3/93 Continued Faults in Country Areas 008 More Problems Reported Heywood 1 Burst of Ring/Insuffient Software Blocks 90 Second Cut Off - Continued Faults	15 Fault ? Faults?	FOI FOI FOI	56 57/61 62
1/3/93	RCM System Was Found Performing Poorly - Protection Moules Problems 2/3/93 RCM Problems VF Cutoffs 5/3/93 RCM Previous System Faulty - Caused By Bearer Block Another Problem ? Caused By Non Modified Channel Cards 15/3/93 Callers to Camp Noise on Line			
7/4/93	2 Bursts - 16/4 RVA Queensland	2 Fault	FOI	63
12/7/93	RVA Wamamabool	1 Fault	FOI	64

2/1/93	Telecom Fault Record - RVA - Busy 89 Faults (1mth) from Cape Bridgewater	?	FOI	70
14/10/93	Telecom Memo Fault Summary	----	FOI	71
16/1/94	Telecom Data - Short Duration Calls	16 Fault	FOI	72
26/10/93	Telecom Memo - RVA (The Old School)	----	FOI	73
16/1/94	Telecom Data - Short Duration Calls	24 Fault	FOI	74
24/2/94	Telecom Data - Short Duration Calls	27 Fault	FOI	75
24/2/94	Telecom Data - Short Duration Calls	26 Fault	FOI	76
28/4/93	Childrens Hospital Letter	2 Fault	----	77
5/5/93	Prahran Sec College	5 "	----	78
1/5/93	Camp Letter to Telecom (4 pages)	?	----	79
7/5/93	Childrens Hospital - Letter to Camp	----	----	81
3/1/93	Miss Cullen - Letter to Camp	----	----	82
3/1/93	Daylesford Comm. House - Letter	----	----	83
----	Camp Brochure	----	----	86
----	Camp Brochure	----	----	87
----	Camp Brochure	----	----	88
----	Camp Bfochure	----	----	89
----	'Kevin Turner' Golf Links (Placade)	----	----	91
30/5/94	'Kevin Turner" Property - Caretaker Letter	6 Fault	----	92
1/11/91	Haddon Com Hse- 3mths Contined RVA	??	----	96
6/4/93	Haddon Com Hse - Continued Faults	??	----	97
2/2/94	Fax Faults - Solicitor	2 Fault	----	100
21/1/94	Fax Faults - Accountant	5 Fault	----	101
22/4/94	Fax Faults - Austel	3 Fault	----	102

12/5/94	Telecom Fault Report - NDT	3 Fault	FOI	117
12/5/94	Telecom Fault Report - Busy When Not	1 Fault	FOI	119
29/4/94	Telecom Fault Report - 2 Ring Burst	2 Fault	FOI	120
24/5/94	Tekecom Fault Report - 008 & Busy Tone	2 Fault	FOI	124
2/5/94	Telecom Fault Report - 'Contined Faults"	?	FOI	125
18/3/94	Telecom Fault Report - Fax	1 Fault	FOI	126
--/3/94	Telecom Fault Report - Gold Phone	3 Fault	FOI	127
28/2/94	Telecom Fault Report - NNR	1 Fault	FOI	128
12/5/94	Telecom Fault Report - Fax Fault	1 Fault	FOI	129
12/5/94	Telecom Fault Report FAULT FOUND in RCM Common Equip	??	FOI	130
12/5/94	Telecom Fault Report - NNR	1 Fault	FOI	131

13/5/93 to 8/6/94	Telecom Memo - Continued RVA 14 months ***Note: Legal Professional Privilege*** Confirmed Fault RVA Above		FOI FOI	141 142
14/2/94	Telecom Fault Report	1 Fault	FOI	143
27/5/94	Telecom Fault Report - Short Bursts RVA	10 Fault	FOI	144
25/5/94 27/5/94	Telecom Fault Report - RVA + RVA 008	5 Fault 2 Fault	FOI	145
----	Golden Message 60 minutes RVA	1 Fault	FOI	146
----	Telecom Memo - RVA & Cut Off	2 Fault	FOI	147
27/5/94	Telecom Fault Report - RVA	1 Fault	FOI	148
3/11/93	Telecom Admission - RVA Destroying My Business	----	FOI	149
24/5/93	Telecom Letter - Cut Offs Bridgewater	FAULTS	FOI	150
39/5/94	Telecom Memo - 11 Short Bursts + RVA	12 faults	FOI	151
26/5/94	Telecom Memo - Network Confirmed 80 Customers on 055 267 2XX - RVA?	----	FOI	152
----	Telecom CCAS Data Mistakes	10 Fault	FOI	153
25/5/94	Telecom Working Doc. - RVA 80 Custom	----	FOI	154
----	Telecom Letter - Acknowledgement Of RVA Prevalent on AXE Exchanges	----	FOI	155
----	Melaleula Motel Portland Short Duration Incoming 008 Calls	----	FOI	156
----	Telecom Short Duration Calls	?	FOI	168
----	Telecom Short Duration Calls	?	FOI	169

A.1

APENDIX CODE ↓

4/5/94	Telecom Fault Report - Locking Up	1 Fault	FOI	S1
10/5/94	Telecom Fault Rep - Misleading Conduct	----	FOI	S2
14/5/94	Telecom Fault Report - RVA	1 Fault	FOI	S3
28/2/94	Telecom Fault Report - Fax 267 230	4 Fault	FOI	S4
2/11/93	Telecom Fault Report - Continuing Faults	3 Fault	FOI	S5
12/3/94	Telecom Fault Report - Continuing Faults	2 Fault	FOI	S6
16/4/94	Telecom Fault Report - Continuing Faults	3 Fault	FOI	S7
16/4/94	Telecom Fault Rrport - Continuing Faults	1 Fault	FOI	S8
7/4/94	Telecom Fault Report - Continuing Faults	2 Fault	FOI	S9
18/4/94	Telecom Fault Report - Fax	2 Fault	FOI	S10
14/4/93	Telecom Fault Rep - Continuing Faults	?	FOI	S11
19/3/94	Telecom Fault Report - Gold Phone	1 Fault	FOI	S12
12/5/94	Telecom Fault Report - Fax	1 Fault	FOI	S13
2/5/94	Telecom Fault Report - Continuing Faults	1 Fault	FOI	S14
25/5/94	Telecom Fault Report - RVA ***80 Customers Cape Bridgewater***	?	FOI	S15
24/5/93	***Austel Letter - RCM 180 Customers*** Conflicting Statements	----	FOI	S16
20/7/94	Telecom Letter - ***Re 50 Customers RCM***	----	FOI	S16b
Nil	Re Telecom Document - ***(Appendix 70)*** ***180 Cust. RCM*** Conflicting Statement	----	FOI	APP70
July 94	***Austel Advises - 75 Customers RCM***			
31/5/94	Telecom Document - RCM Testing Equipment Faulty	?	FOI	S17

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11/5/94	Telecom Fault Report - 2 Burst Fault	2 Fault	FOI	S18
25/5/94	Telecom Fault Report - Fax/4 Burst RVA	4 Fault	FOI	S19
27/5/94	Telecom Fault Report - Fax 1 Burst RBA	20 Fault	FOI	S20
25/5/94	Telecom Fault Report - RBA	?	FOI	
27/5/94	- RBA	2 Fault	FOI	S21
9/6/93	Telecom Document - RBA	1 Fault	FOI	S23
26/11/93	CCAS Data - Fax	8 Fault	FOI	S24
23/12/93	CCAS Data - Fax	5 Fault	FOI	S25
23/3/94	Telecom Fault Report - NRR	1 Fault	FOI	S26
14/2/94	***Telecom Report - Continued Faults***	?	FOI	S27
4/5/94	***Telecom Report - Continued Faults***	?	FOI	S28
19/3/94	***Telecom Report - Continued Faults***	3 Fault	FOI	S29
14/6/94	***Telecom Report - Continued Faults***	9 Fault	FOI	S30
17/8/93	Telecom Fault Report - 008	1 Fault	FOI	S31
29/3/94	Telecom Fault Report - Busy When Not	2 Fault	FOI	S32
----	Telecom Fault Report - Continuing Faults	9 Fault	FOI	S33
6/3/94	Telecom Fault Report - Ongoing Faults	?	FOI	S34
14/2/94	Telecom Fault Report - Ongoing Faults	?	FOI	S35
26/7/93	David Hawker M.P. - Local Faults	?	FOI	S36
12/5/94	Telecom Fault Report - Busy When Not	1 Fault	FOI	S37
12/5/94	Telecom Fault Report - 2 Bursts	2 Fault	FOI	S38
29/4/94	Telecomb Fault Report (2 days)	4 Fault	FOI	S39
9/9/93	***Telecom Plot***	?	FOI	S40
----	***Telecom Plot*** - Cape Bridgewater	?	FOI	S41

A·3

----	Telecom Memo - 267 267 Lockup	?	FOI	S42
29/4/94	Data 1/Unanswered Calls	33 Fault	FOI	S43
12/11/93	Telecom CCAS Data - Fax	6 Fault	FOI	S44
25/2/94	***Telecom CCAS Data - 99 Test Calls*** ***50 Successful - 49 Busy***	49 Fault	FOI	S45
14/6/94	Telecom Memo - Continued Faults	21 Fault	FOI	S46
----	Telecom Admission of Faults	----	FOI	S47
27/7/92	Telecom Memo - RVA	5 Fault	FOI	S48
7/6/93	CCS7 Data - Dial Out Fault	1 Fault	FOI	S49
	Telecom Memo *August 1991* *Conflicting Statement* *(5 Day Fault) was a* 36 Day Fault	?	FOI	S50
26/4/94	Teleco Fault Report - Continuing Fault	?	FOI	S55
	Telecom Memo - August 1991 - RVA *(Telecom Wording) Telephone* *service 100% better* service 100% better ***Why did it take us 4 years*** *Continued Faults*	?	*FOI*	*S57*
----	6 Transmission Muliplex Loop a735/a730 Misleading Statements	----	FOI	S59
----	CCAS Data - Incorrect	----	FOI	S60
----	In & Outgoing Calls Monitoring	----	FOI	S61

INCORRECT BILLING WHEN READ IN CONJUCTION WITH CCAS DATA . . . . . This can be verified by polynerizing the itemized accounts 267 230 & 008 816 522 with the available CCAS & CCS7 data. You will find there are discrepancies in both the seconds of the incoming and outgoing calls. There are also registered calls being charged on both accounts, these however are not registered on the CCAS data. This appendix with both the itemized accounts and available CCAS data can be cross checked by using the information supplied. This exercise is to show both parties in this Arbitration process that the CCAS & CCS7 data has a tendancy to not register all incomming and outgoing calls. This exercise will also show incorrect charging on both accounts.	Approx. No Faults 400 to 450	FOI	B1 to B83
RAW ELMI DATA With the limited access of the raw data which has been made avilable by Telecom, I have been able to substantiate with this limited material, unanswered calls being registered by the ELMI 'as answerred calls' and 'vise versa'. This raw data will show line lock ups as well. With the above mentioned faults and the 5 day raw data appendixed in 'reference 1258 to 1283' from my first submission, the resource team will see from the data at hand there were many lost calls to this Business and likewise incorrect monitoring.	----	FOI	B100/111

9/6/93	267 267 RDF NRR
10/6/93	267 267 + 267 230 CCS7 Data
14/6/93	267 267 + 267 230 CCS7 Data
16/6/93	267 267 + 267 230 CCS7 Data
16/6/93	267 267 + 267 230 CCS7 Data
18/6/93	All lines have problems with calls, calls from Gold Phone cut out INT, Fax's sent to fax number INT not get through.
18/6/93	Horsham, Stawell, Ballarat, Wallacdale, Nth Melb, Rye, Frankston, Sydney, Darwin, Nth Geelong, Geelong, Coburg, Macleod,
18/6/93	Doncaster, Carnegie, Harwell, and Melb CBD callers experienced problems ranging from RVA, Dead line, False busy, Static
23/6/93	NRR When calling 008

7/10/92	267 267 INT ANV TBO
8/10/92	267 267 SID 2243
8/10/92	267 267 CCAS data
10/10/92	267 267 CCAS data
12/10/92	Call droped out 5 times between 1 and 2.30pm. Rang 2-4 times, stopped before phone could be answered.
12/10/92	267 267 INT NRR TRO
12/10/92	267 267 CCAS data
15/10/92	267 267 CCAS data
15/10/92	267 267 CCAS data
19/10/92	267 267 AND INT NRR
19/10/92	267 267 CCAS data
20/10/92	FNT FNR
23/10/92	267 260 NDT NRR
29/10/92	267 267 BYO
2/11/92	267 267 CCAS data
2/11/92	267 267 CCAS data
26/5/93	Customer rang NHI indicating problem with callers from Dimboola and Burwood areas (Burwood problem was fax transmission)
26/5/93	267 230 FAX NDT NRR
27/5/93	CCAS on 267 267 until 1/6/93
27/5/93	267 267 CCAS until 07/06/93
27/5/93	267 267 CCAS data
27/5/93	267 267 CCAS data
27/5/93	267 267 CCAS Data
27/5/93	Summary of calls from 27/5 to 8/7/93
16/7/93	267 267 CCS7 Data
17/7/93	267 267 CCS7 Data
18/7/93	267 267 CCS7 Data
19/7/93	267 267 CCS7 Data

Just an example of some of the type of *"Raw Data"* Telecom refused to give to the Cape Bridgewater Camp during this Arbitration Procedure.

3/6/93	267 267 + 267 230 CCS7 Data
3/6/93	267 267 CCS7 Data
3/6/93	267 267 WAV CUS NRR
4/6/93	267 267 CCAS data
4/6/93	RVA x2 reported from 03 859 4786.
4/6/93	267 267 + 267 230 CCS7 Data
5/6/93	Called Ballarat
5/6/93	267 267 CCS7 Data
6/6/93	267 230 CCS7 Data
7/6/93	267 267 CCAS data
7/6/93	267 230 CCAS data
7/6/93	267 267 CCAS data
7/6/93	267 260 CCAS data
7/6/93	RVA to 008 816 522 *2 from 859 4786
7/6/93	267 267 + 267 230 CCS7 Data
7/6/93	267 267 + 267 230 CCS7 Data
8/6/93	Called Ballarat
8/6/93	267 260 CCAS data
8/6/93	267 230 CCAS data
8/6/93	267 267 CCAS data
8/6/93	267 260 CCAS data
8/6/93	267 230 CCAS data
8/6/93	267 267 CCAS data
8/6/93	267 267 + 267 230 CCS7 Data
10/6/93	267 260 CCAS data
10/6/93	267 230 CCAS data
10/6/93	267 267 CCAS data
10/6/93	10 test calls from Mt Eliza
10/6/93	Reported dispute about reminder calls on newly received Billing Information *******Check CCS7 an CCAS
10/6/93	267 267 + 267 230 CCS7 Data
11/6/93	267 230 CCAS data
11/6/93	267 230 CCAS data
11/6/93	267 260 CCAS data
11/6/93	267 267 + 267 230 CCS7 Data
12/6/93	267 267 + 267 230 CCS7 Data
15/6/93	267 267 CCAS Data
15/6/93	267 230 CCAS Data
16/6/93	267 230 CCAS data
16/6/93	Request for Gordon Stokes to test 267 267
16/6/93	Calls from 60 Minutes, callers to 267 267 get high pitched tone and Robert Palmer (Portland)
16/6/93	Rang Palmer
16/6/93	Further reports of high pitched tone on answer.
16/6/93	267 267 + 267 230 CCS7 Data
17/6/93	Caller rang 267 267 got busy
17/6/93	Spoke to Smith re 60 Minutes who could raise him on 267 267 10/06/93
17/6/93	reports of problems for callers from 723 6994 & 848 9482 - couldn't get through.
17/6/93	267 267 + 267 230 CCS7 Data
17/6/93	267 260 CCAS Data
18/6/93	267 260 CCAS data
18/6/93	267 230 CCAS data
18/6/93	267 267 CCAS data
18/6/93	Smith called 006 033 849 from Gold Phone (267 260)
18/6/93	Spoke to Smith re loss of Tx on a call he made from 267 230 - 07 857 6636 60 Minutes (Julian Cress) tried to call 006 816 522

Just an example of some of the type of *"Raw Data"* Telecom refused to give to the Cape Bridgewater Camp during this Arbitration Procedure.

Black
Benjamin
Chalmers
Hamilton-Smith
Sleep FOI
Haas
Armstrong
Grant
FHP
[redacted]

Telecom AUSTRALIA

Commercial & Consumer
Customer Affairs
Level 37
242 Exhibition Street
Melbourne Vic. 3000

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

17 October 1994

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

By Facsimile: 277 8797

Dear Mr Smith

Mr Alan Smith

I refer to your letter of 20 September 1994, concerning your request for information regarding the MCT equipment which Telecom used on Mr Smith's telephone service as part of a fault investigation. Mr Smith has also raised the use of MCT on his service during June to September 1993 with me.

As you may be aware, Telecom is providing historical documentation relating to fault investigations (including voice monitoring) conducted on Mr Smith's telephone service, via the following avenues:

1. to Mr Smith pursuant to the FOI Act;
2. to Mr Smith and the Arbitrator under the "Fast Track" arbitration procedure; and
3. to the Australian Federal Police on request.

Mr Smith has also raised Telecom's fault investigation procedures (including voice monitoring) as an issue in his claim which is under arbitration. Telecom is currently in the process of responding to that claim under the agreed arbitration procedure.

I have been informed that MCT was connected to 267 267 and 267 230 on or about 2 June 1993. MCT was disconnected from 267 267 on or about 19 August 1993, and from 267 230 on or about 7 September 1993. All records known to exist in respect of this particular matter have been provided to Mr Smith.

If you require any further information or documents, then Telecom will provide them as quickly as possible. It would be helpful if you would also clarify the content of your request.

Yours sincerely

Steve Black
GROUP MANAGING DIRECTOR
CUSTOMER AFFAIRS

M34256

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the Resource Unit or any advice given to him by the Resource Unit. Unless the Arbitrator is able to conclude that Telecom caused the loss claimed, there will exist no basis for a claim against Telecom.

11. The Arbitrator's reasons will be set out in full in writing and referred to in the Arbitrator's award.

12. If Telecom Australia appeals against the Arbitrator's award pursuant to Section 38 of the Act, Telecom Australia will provide funds from time to time to meet all reasonable legal costs incurred by the Claimant in relation to the appeal and the application for leave to appeal, which costs are to be assessed on a party/party basis (plus 10% of the party/party costs as assessed). Should any dispute arise between the Claimant and Telecom as to the timing of such funding, such dispute shall be determined by the Administrator who shall make his determination after hearing representations from the parties. Neither party shall seek an orders for costs in such appeal proceedings.

13. Telecom commits in advance to implementing any recommendation made by the arbitrator pursuant to sub-clause 10.1.1.3.

14. Subject to clause 17 and unless directed otherwise in the Arbitrator's award or the parties otherwise agree or a Court otherwise orders, within three weeks of dispatch to the parties of the Arbitrator's award, payment shall be made by Telecom of any monies directed by the award to be paid. Such payment shall be made directly to the Claimant or in such manner as the Claimant directs, and not through the Administrator. If the Arbitrator determines in respect of a Claimant's claim an amount less than that paid under an earlier settlement, Telecom agrees that the difference will not be recoverable.

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ATTACHMENT K.

FAX FROM:	ALAN SMITH C. O. T.	DATE:	27.10.94
FAX NO:	055 267 230		
PHONE NO:	008 816 522	NUMBER OF PAGES (including this page)	

FAX TO: MR TED BENJAMIN
NATIONAL MANAGER
CUSTOMER RESPONSE UNIT
TELECOM FAX: (03) 632 3235

Dear Mr Benjamin,

You and I both know of the many letters that have gone back and forth, correspondence on the CCAS, CCS7 and Smart 10 data. The fact is that, like Paul Rumble, either you have been lied to by Network Investigations or you have conspired with them to defraud me with regard to the information sought on this data.

I shall now ask for information of a similar nature, or the next best thing. Telecom can hardly say this information is not at hand: would you please release under the F.O.I. Act, the documents noted below, under my F.O.I. application dated 21st December, 1993.

I am including in this fax a document similar to those I am seeking, dated at around the same time. I received this particular document on Friday 21st October, 1994 as a result of my new F.O.I. application.

The documents requested are: CCS7 Call Statistics documents similar to the one following this page. I require documents dated 4/11/93, 5/11/93, 6/11/93 and 9/11/93. These CCS7 Call Statistics will help me further my investigations and my Arbitration Procedure.

Since this CCS7 documentation should have been supplied under my first F.O.I. application some 9 months ago it should now be forwarded as priority one.

Sincerely,

Alan Smith.

cc. Dr. Gordon Hughes, Hunt & Hunt (Fast Track Arbitrator)
John Wynack, Commonwealth Ombudsman's Office, Canberra

///

FAX FROM: ALAN SMITH
C. O. T.

DATE: 3.11.94

ATTACHMENT L

FAX NO: 055 287 230

PHONE NO: 008 816 522

NUMBER OF PAGES (including this page)

FAX TO: STEVE BLACK
CUSTOMER RESPONSE UNIT
TELECOM

Dear Mr Black,

I am again requesting that you supply information, and I trust that you will not supply the information requested only through the Fast Track Arbitration Procedure. The Bell Canada Testing Report was a document of PUBLIC INTEREST, and as such should not be restricted by the Arbitration Procedure - it should remain in the public domain.

I have a faxed copy of Call Statistic CCS7, filename 266. This is a code for the PTARS at Cape Bridgewater RCM. This document, as you will see, states that on the 4/11/93 there were 3365 calls generated to that PTARS. Likewise, there are 41 calls on this CCS7 data that did not register as calls received at the PTARS.

If we go to the Bell Canada Testing Report, we see on 6/11/93 the same number of generated calls (3365) being received at the 266 PTARS and also the same number of lost calls (41). My question is from the public domain: Are these calls the same calls being captured at the PTARS on two different days, two days apart? Is this just coincidence, or are they they same set of calls?

This request of mine is most important. I would like a response from the Customer Response Unit, after all, is this not what the Unit was set up for - Customer Response?

Mr. Black, if these calls are just coincidental then I would be most grateful if you would, as a sign of good will, forward me the other copy in relation to the CCS7 Call Statistic Report of the 6/11/93.

This request was originally made in my F.O.I., some ten months ago, and the information should have been supplied under Network. However, I am not writing to go over old ground or just to enable me to clarify sections in my Arbitration. I believe I have good grounds to ask for this information.

A copy of this fax has been sent to the Minister for Communications, the Hon Michael Lee. I understand that his office would be concerned at irregularities, if any, in the Bell Canada Testing.

Sincerely,

Alan Smith.

cc. Mr Warrick Smith, Telecommunication Industry Ombudsman
Dr. Gordon Hughes, Hunt & Hunt (Fast Track Arbitrator)
The Hon. Michael Lee, Minister for Communication

Hunt & Hunt
LAWYERS

10 November 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 am enclosing a submission from Telecom dated 26 October 1994 in response to your letter of 17 October 1994.

In response to the three questions raised in your letter of 17 October 1994, I advise as follows:

(a) I have power under Clause 7.5 of the Fast-Track Arbitration Procedure to direct the production of relevant documents, excluding those protected by legal professional privilege. I am unable to make such a direction at this stage as I have still not been formally advised as to the nature and parameters of the claim. Once your claim has been submitted and once I have received Telecom's defence, I will be sufficiently informed as to the issues to make any appropriate orders regarding the production of further documents;

(b) I can effectively compel an explanation by Telecom of its raw data and other statistical documentation by requiring a suitably informed representative to attend a hearing. I can enlist the assistance of DMR, a member of the Resource Unit, in this regard. Again, I consider it premature to embark upon such a course of action. I must be convinced that the exercise is relevant to your claim. I cannot determine what is relevant to your claim until you have submitted formal claim documentation;

(c) You have inquired whether the current Fast-Track arbitration Procedure incorporates or excludes loss and damage arising out of alleged unauthorised telephone tapping.

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.

The scope of the arbitration is determined by reference to the arbitration agreement (that is, the Fast-Track Arbitration Procedure) unless the parties have subsequently agreed to vary the scope. Clause 1 of the Fast-Track Arbitration Procedure states that the purpose of the procedure is to resolve the disputes listed in Schedule A. Schedule A states that the scope of this arbitration is to determine:

> "the liability of Telecom to the Claimant in respect of alleged service difficulties, problems and faults in the provision to the Claimant of telecommunication services".

Telecom has indicated in its letter of 26 October 1994 that it is "keen to have all issues in dispute" dealt with in the arbitration process. It is, therefore, prepared to classify the allegations of unauthorised telephone tapping as falling within the description of "alleged service difficulties, problems and faults".

You have inquired "how and when these matters were introduced into the Fast-Track Arbitration Procedure". I am not clear whether this means you are objecting to their introduction. In any event, I am not aware that they have been "introduced" to the procedure. As indicated above, I cannot form a view as to what specific matters are in dispute until you have formally submitted your claim.

If you submit a claim which makes no reference to the allegations of unauthorised telephone tapping, and if Telecom makes no comment about the exclusion of such allegations, then they will fall outside the scope of this arbitration.

If your claim documentation includes a claim for compensation in relation to unauthorised telephone tapping, and if Telecom makes no objection to its inclusion, then it will fall within the scope of the arbitration.

If Telecom contends, at the time of submission of your claim, that certain matters have been incorrectly included or excluded, I will invite formal submissions from both parties as to their understanding of Schedule A of the Fast-Track Arbitration Procedure and I shall then issue such directions as I consider appropriate.

It should be clear from my comments above that I am unable to play a constructive role in these proceedings until your claim documentation has been lodged. I am unable to compel you to lodge a claim. I can, however, set deadlines and if you are unable or unwilling to comply with them, Telecom may chose to make a submission as to the future of this arbitration. Alternatively, regardless of any submission by either party, I may conclude at some point that any attempt to arbitrate the dispute is futile, in which event I might elect to withdraw. I do not consider this scenario would be in the interests of either party and I am therefore

hopeful (and I have to date been prepared to give every possible indulgence to ensure) that this claim can be processed in accordance with the agreed Fast-Track Arbitration Procedure.

I now direct that your claim documentation be submitted on or before Monday 12 December 1994.

In submitting your claim, you should bear in mind that it is not necessary for all relevant or potentially relevant documentation to be appended or even referenced. The function of the claim documentation is to present me, and Telecom, with an adequate explanation of the basis upon which you consider you are entitled to compensation or, more specifically, the "alleged service difficulties, problems and faults" in the provision by Telecom to you and related entities of telecommunication services.

Yours sincerely

GORDON HUGHES

Encl

CC E Benjamin, W Smith, P Bartlett, J Rundell

COMMONWEALTH & DEFENCE FORCE
OMBUDSMAN

Prudential Building, cnr London Circuit & University Avenue, Canberra City
GPO Box 442, Canberra, A.C.T. 2601, Australia
Tel: (06) 276 0111; Fax: (06) 249 7829; Int. Fax: + 61 6 249 7829

10 November 1994 C/94/225

Mr Frank Blount
Chief Executive Officer
Telstra Corporation Ltd
38th floor, 242 Exhibition Street
MELBOURNE VIC 3000

Attention Ms Joy Geary

Dear Mr Blount

At the request of Ms Geary, I am notifying you of the details of the complaints made to the Ombudsman by Mr Alan Smith.

20.1.94 Telecom unreasonably has decided to apply charges to his FOI request and has stated that the charges will be considerable.
2.3.94 Telecom has delayed providing access to documents.
2.3.94 Deletions from documents provided and exemptions were not explained.
24.3.94 Telecom claimed that documents given to Telecom by Mr Smith in 1992 had been destroyed or lost.
Telecom unreasonably refused to give any further documents to Mr Smith.
Telecom has lost or destroyed a number of files relating to his contacts with Telecom prior to 1991.
14.4.94 Telecom unreasonably refused to provide documents allegedly referring to discussions Mr Smith had with three Telecom officers concerning a discussion Mr Smith had with Mr Malcolm Fraser.
Telecom unreasonably deleted information from documents released.
Telecom unreasonably denied Mr Smith access to 460 documents.(letters of 14.4.94 and 15.4.94 from Mr Smith to Mr Black refer)
5.5.94 Telecom unreasonably delaying providing access to many documents.

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Telecom denied access to ELMI tapes for 21, 22, and 23 October 1992.

Telecom imposed unreasonable charges for access to documents sought under the FOI Act.

25.5.94 Telecom failed to provide fault reports for the period after 22/6/93, particularly from 9/8/93 to November 1993.

14.9.94 Telecom refused access to documents relating to voice monitoring for fault finding during 1993.

18.9.94 Telecom acting unreasonably in refusing to provide access to 'Bell Canada Raw Data'.

2.10.94 Telecom delayed providing access to documents under the FOI Act while Telecom's solicitors examined the documents.

23.10.94 Telecom unreasonably refused access to 'ELMI Smart 10 tapes' for the period May to July 1993. (Mr smith's letter to Mr Benjamin on 23.10.94 refers).

27.10.94 Telecom unreasonably refused access to CCS7 Call Statistics documents dated 4/11/93, 5/11/93, 6/11/93 and 9/11/93. (Mr Smith's letter to Mr Benjamin dated 27.10.94 refers).

26.10.94 Telecom incorrectly informed Mr Smith that Telecom did not have in their possession '..any of the raw data and working papers to do with the Bell Canada testing and report.'

7.11.94 Telecom unreasonably refused to provide the 'Portland/Cape Bridgewater Log Book associated with the RCM at Cape Bridgewater' for the period 2 June 1993 to 6 March 1994.

I think the above is comprehensive; but I have sent a copy of this letter to Mr Smith and invited him to apprise me of any complaints he has made which I may have omitted inadvertently.

Yours sincerely

John Wynack
Director of Investigations

FAX FROM: ALAN SMITH
C. O. T.

DATE: 11.11.94

FAX NO: 055 267 230

PHONE NO: 008 816 522

NUMBER OF PAGES (including this page)

FAX TO: DR GORDON HUGHES
HUNT & HUNT
LAWYERS
MELBOURNE

FAST TRACK ARBITRATOR

Dear Dr Hughes,

I believe the following fax from the Commonwealth Ombudsman's Office, is relevant to my claim, and not contrary to the instructions outlined in your letter dated 10th November, 1994.

In defence of these letters and faxes I would like to state that I believed at the time of writing that I was showing both the reluctance of Telecom to assist me with the Arbitration Procedure and their efforts to inconvenience me in this Procedure. However, I understand the legal reasons you have put forward as to the inappropriateness of forwarding literature back and forth where it may be seen by parties as compromising the confidential undertakings I agreed to abide by.

At no stage did I, or will I in the future, intend to embarrass Hunt & Hunt; neither will I undermine the Arbitration Procedure. I respect your views and judgement and will leave any grievances that I may or may not have with Telstra to be viewed only in the Arbitration Procedure and within the guidelines of the process.

Respectfully,

Alan Smith.

in understanding the bases for dispute between the parties on a range of issues;

(l) both parties were provided with an opportunity to comment on the contents of the reports I received from the Resource Unit.

2.2 In all, I have read in excess of 5,000 pages of documentary evidence submitted by the parties.

2.3 Although the time taken for completion of the arbitration may have been longer than initially anticipated, I hold neither party and no other person responsible. Indeed, I consider the matter has proceeded expeditiously in all the circumstances. Both parties have co-operated fully.

3. Overview

3.1 I do not intend summarising all the evidence submitted in connection with this claim. Any omission in these Reasons of a reference to any facts or evidence should not be interpreted as a failure on my part to take those facts or evidence into account. This part sets out an overview of the dispute only.

3.2 ***Overview of Claim***

(a) The claimant alleges that defective telecommunications services provided by Telecom have damaged his business and caused his health to suffer.

(b) The claimant, a chef by occupation and now 51 years of age, purchased as a going concern the Cape Bridgewater Holiday Camp in February 1988. The camp included a homestead, old church and a number of cabins which had a combined capacity to sleep in excess of 100 people.

(c) Cape Bridgewater is 20 miles from Portland. The claimant regarded the area as a significant tourist attraction and says there was no documented evidence of any decline or predicted decline in tourism at the time of the purchase.

(d) The former owner of the business now lives in India and has not provided evidence on behalf of either party in these proceedings. I know relatively little about the state of the business or the state of the telephone system used by the business as at the time of the purchase or beforehand. In any event, the claimant says he contemplated improving the existing facilities and hence the quality of clientele, thereby increasing revenue and profits.

(e) The claimant asserts that the ongoing viability of the business was to a significant extent dependent upon his ability to take telephone bookings. He states that he first became aware of a problem with his telephone system about two months after he moved in. He was alerted to the problem by the poor response he received to a vigorous

Telecom AUSTRALIA

Office of Customer Affairs
Commercial & Consumer

Level 37
242 Exhibition Street
Melbourne Vic. 3000

Telephone (03) 9634 2977
Facsimile (03) 9632 3235

7 September 1995

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

By Courier

Dear Sir

Re: Alan Smith supplied documents under FOI

I refer to your letter of 25 August 1995 addressed to Mr Steve Black. I am answering the letter on behalf of Mr Black as I am the manager responsible for handling disputes through the arbitration procedure.

Your letter relates to complaints made by Mr Smith that certain documents relevant to his claim were released to him under FOI after the Arbitrator had made his award. I refer to these matters:-

1. The report that Mr Smith alleges he has never received. Mr Smith did receive a copy of this report. It is the PCM Multiplex Report. Mr Smith has not received it under FOI as the document has never been requested by him. However, a copy was made available to the Arbitrator last year to be passed on to Mr Smith, Mrs Garms and Mrs Gillan. To the best of Telstra's knowledge this was done by the Arbitrator.

   I am concerned that Mr Smith has brought this matter up with you as he has also brought it up with the Commonwealth Ombudsman and Telstra has dealt with the complaint through her as it was a matter raised under the FOI Act;

2. Documents N00005, N00006 and N00037 were first supplied to Mr Smith under FOI on 26 May 1995. They were not made available prior to that date.

   Nevertheless it is quite clear from this document that Mr Smith was well aware that there was an error in the transcribing of dates relating to testing carried out by BCI. - In particular, note the first line of document N00037 *"Mr Smith is correct in the suggestion implied in his* query *that the test results..."* (my emphasis).

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You will note that Mr Smith in his claim documents says *"Telstra have already agreed that something was amiss with the testing of Cape Bridgewater as far as Bell Canada was concerned"*. Further, in his reply to the Resource Team he talks about the Bell Canada test calls to Cape Bridgewater in November 1994. A copy of relevant claim and reply pages are attached (Attachment 1).

In addition, Telstra notes that the Arbitrator states in his decision in relation to the Bell Canada Report and others that *"in reaching my own conclusions I have taken account of the findings contained in the reports but I have not accepted as evidence the material upon which those findings were based unless that material has been corroborated or (where relevant) incorporated by reference in the present claim"*. (see clause 3.8 (c)). In relation to the incorporation of BCI testing by reference, Telstra did not rely on the BCI testing in its arbitration defence documents. The only reference to the BCI testing is made by Mr Smith in his claim and reply documents.

Telstra denies that any information in relation to this matter has been withheld from Mr Smith. The copy of the E-mail mentioned above (N00037), makes it clear that Mr Smith was well aware of some form of discrepancy in August 1994 and he brought this up in his claim documents.

It is also clear that the Arbitrator did not accept as evidence BCI testing material unless it was corroborated or incorporated by reference in his decision. Consequently, Telstra submits that this matter has been completed and that no further explanation need be given.

It should be noted further that Telstra advised Mr Smith that approximately 60% of documents released to him under FOI on or about 26 May 1995 were copies of documents previously released. A detailed explanation of how this occurred has already been delivered to the Commonwealth Ombudsman. what was in the other 40%

3. Documents K41972 to K41975 were sent to Mr Smith on 24 May 1995. Duplicates of these pages, namely R10401-R10405 were sent to Mr Smith on 19 July 1994 - released in full at that time. Review tables were sent to him on 22 December 1994 (see Attachment 2). Mr Smith was consequently aware of the contents of this letter prior to the lodging of his claim.

Yours faithfully

Ted Benjamin
Group Manager
Customer Affairs

Attach:

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order, for the Arbitrator. The Arbitrator was required to provide these reports to the parties for comment and submissions.

At the completion of these stages, the Arbitrator would make a determination and Award.

Those are the salient features of the process.

The procedures as developed, envisaged a number of benefits both for the Claimants and for Telstra. From the point of view of the Claimants, the benefits were to be:

- a fast, non-legalistic, procedure, operating in accordance with natural justice to produce a fair outcome;
- all administrative costs were to be borne by Telstra;
- strict rules of evidence and of law were relaxed, in favour of the Claimants.

From Telstra's point of view the benefits were:

- finality and certainty in the determination of the Claims, as opposed to the uncertainties of other methods of resolution such as mediation or negotiated settlements which had already occurred with some of the COT cases
- confidentiality of the process.

Experience has shown that not all of these benefits have materialised. In my view, however, one of the potential deficiencies should have been obvious from the outset.

This deficiency revolves around the vexed question of the best method of enabling the Claimants to obtain documents held by Telstra. In the process leading up to the development of the Arbitration procedures, the Claimants were told that documents would be made available under the Freedom of Information Act.

The Commonwealth Ombudsman has reported on the problems encountered by Claimants in using the FOI process and I won't reiterate her findings. For present purposes, it is enough to say that the process was always going to be problematic, chiefly for three reasons.

Firstly, the Arbitrator had no control over the process, because it was conducted outside the ambit of the Arbitration Procedures.

Secondly, in providing documents, Telstra was entitled to rely on exemptions under the FOI Act. This often resulted in the Claimants receiving documents which were difficult to understand, because information had been deleted.

COPY

Hunt & Hunt
LAWYERS

15 November 1994

Our Ref: GLH
Matter No:
Your Ref:

BY FAX: (055) 267 230

Mr Allan Smith
Cape Bridgewater Holiday Camp
RMB 4408
Cape Bridgewater VIC 3305

Dear Mr Smith

ARBITRATION - TELECOM

I acknowledge receipt of your facsimile dated 13 November 1994.

As I have indicated previously, I believe it would be inappropriate for me to order the production of documents in connection with the preparation of your claim until Telecom has submitted its defence. I will then understand the parameters of the claim.

I will consider making any such orders once all material has been submitted. It is not appropriate, or necessary, for you to make a decision one way or the other in the meantime.

If material becomes available to you under FOI in the course of this arbitration, and if that material makes it necessary for you to amend your claim, you should advise me accordingly.

Yours sincerely

GORDON HUGHES

CC E Benjamin, W Smith, P Bartlett, J Rundell

16/11/94

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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.

FAX FROM:	ALAN SMITH C. O. T.	DATE:	27.11.94
FAX NO:	055 267 230		
PHONE NO:	008 816 522	NUMBER OF PAGES (including this page)	

FAX TO: **DR GORDON HUGHES**
HUNT & HUNT
LAWYERS
MELBOURNE

Dear Dr Hughes,

I refer to your letter dated 15 November, 1994.

In paragraph three you have noted that, if newly released F.O.I. material is made available by Telecom, and if that makes it necessary for me to amend my claim, I should advise you accordingly.

I have continually corresponded with both yourself and Telecom about my concerns with regard to the conduct of Telecom Management; Simon Chalmers; Freehill, Hollingdale & Page and their delaying tactics. Their drip feeding procedure, where the release of these F.O.I. documents is some twelve months late, has disadvantaged me in the preparation of my submission under the Fast Track Arbitration Procedure.

Newly released documents on their own may only show limited evidence, painting a small picture. However, had this newly released F.O.I. material been released some twelve months ago, as it should have been under the F.O.I. Act, this material, when combined with documents already released, would have helped in many instances to further the point made on certain issues.

Telecom Management, by using this destructive system, has disadvantaged C.O.T. and its members throughout this Arbitration Procedure. By not allowing all the evidence to be viewed by C.O.T., Telecom has stopped us from substantiating all our claims with all the available material. "A Jigsaw Puzzle Can Only Be Finished When All The Pieces Are Tabled": and didn't Telecom Management play this to a break!

I would be obliged if the Resource Team would now note my point as follows: I present a typical situation as an indication of how this late F.O.I. documentation has hindered my preparation of the submission presented to Dr. Hughes:

I have just received Telecom Exchange diary notes, log book extracts and fault reports. On reading the log book entries my mind was taken back to evidence which was presented in my first submission in June of this year: *five months ago.* When I originally contemplated serving an F.O.I. request on Telecom, in early 1992, I received a letter from a Mr Taylor, Warrnambool Customer Operations, Telecom, dated July 3rd, 1992. Mr Taylor stated that there was no historic reference to my complaints to Telecom prior to 27th June, 1991. However, these new diary notes and log book entries, that Telecom released under F.O.I. two weeks ago, triggered me to look back at my first submission and here I once again ask for patience from the Resource Team.

Please turn to reference 2100-2101 of my first Submission and view two Telecom accounts. The lower sections of these accounts clearly show that my phones had been disconnected on Telecom Management approval. On September 4th, 1990 I was charged $96.00 re-connection fees for that service.

I am not only drawing attention to a business in dispute with Telecom having their phones disconnected: what I am showing here is that the newly released F.O.I. documents and log book entries triggered me to think about not only this evidence, but likewise other evidence already presented in my second submission. Forty-nine Telecom customers, who were in dispute with Telecom, had CCAS data connected to their incoming phone lines as early as 1/11/90, yet Telecom have continually stated that no historic documents

The feedback from those prospective buyers who did view this business, although they were reluctant to actually say so, was a concern about the reputation this business has with the Camping Association of Victoria. The fact that the Executive Council of the Association had, over many years, re-directed customers to continue to try to make contact with this business has, in itself, added to the demise of a saleable asset.

It has been brought to my attention by an education consultant that the criteria set and the standards that must be met when taking children away on Camps, must be met at all levels. An example of this is a letter I received from the Royal Childrens' Hospital, Melbourne (refer to my first submission, reference 2034). I quote from that letter:

"We require a guarantee that the telephone system was fully operational before considering Cape Bridgewater Camp as a future venue".

There are also other letters received from various clubs who have had similar problems making contact with this business.

I now have had no other alternative but to withdraw this business from sale as of Monday 28th November, 1994.

I will have to budget my advertising for 1995/1996, as most group bookings will be lodged and taken twelve months in advance. My main priority over the next two months is to try and vamp an advertising program, which is not only costly, but also time consuming.

Over these past twelve months, the preparation of my submission has had a snowball effect on next year's advertising. The fact is that I now have to put the past behind me and grind away to produce revenue and goodwill for 1995/1996 and this will need my complete concentration.

Dr Hughes, we have to draw the line somewhere. To view more F.O.I. documents is going to be time consuming, time that I am running out of. Many of the documents that will be viewed, those that Telecom withheld from my first and second F.O.I. requests, will need to be sorted and categorised, then Telecom will have to put in a further defence, and so it goes on.

I do not have the resources to have a professional team view these additional F.O.I. documents which have just been released by Telecom. I have spent time writing reference to these examples and enough is enough. All future F.O.I. that has not been provided will have to stay put. I am today mentally exhausted and unable to continue taking part in Telecom's façade, their Merry Go Round.

I thank you for your time, and that of the Resource Team.

Sincerely,

Alan Smith

cc. Mr Benjamin, Telecom Customer Response Unit.

exist. In a letter to Ted Benjamin, Telecom Customer Response Unit, on the 7th October, 1994, I asked if I (Alan Smith), was the only Telecom customer in this region about who Telecom had no historic documentation on phone faults. He declined to answer.

We now have this new F.O.I. evidence which would have helped my resource team further to prove that I have had a continuing phone problem for years. Telecom have again stated that, as early as 1987, the Cape Bridgewater Holiday Camp had been complaining of phone faults, yet they have no records.

We have documented evidence of forty-nine Telecom customers having phone faults prior to June 27th, 1991, in the Portland region, yet NO reference to a business having their phones disconnected for five days. ***FIVE DAYS IT TOOK TELECOM TO RECONNECT MY PHONES SO THAT I COULD CONTINUE TO COMPLAIN OF A FAULTY PHONE SERVICE.***

Telecom Commercial know why there are no records associated with my phone faults. I go one step further: in the Senate Estimates, 25th February, 1994, Senator Richard Alston refers to a Telecom memo dated 2nd July, 1992, and I quote from his briefing and from the Telecom Memo:

> *"Our local technicians believe that Mr Smith is correct in raising complaints about incoming callers to his number receiving a Recorded Voice Announcement saying that the number is disconnected. They believe that it is a problem that is occurring in increasing numbers as more and more customers are connected to AXE. The Portland exchange is AXE."*

I now ask Telecom Management "Where did the technicians find the information relating to Mr Smith and his complaints which raised Telecom's attention to the continued Voice Announcements?" I put this to the Resource Team: my letters, sent over a four year period prior to July 1992, the ones that Telecom cannot find, are where the local technicians gained their knowledge.

If we are to view any further new F.O.I. documentation in order to contribute to Telecom having to present a further defence, then we are left with no alternative but to remain inconvenienced in no uncertain manner.

Dr Hughes, I have presented here only one example of where Telecom, by the late delivery of the material requested under F.O.I., has inconvenienced my submission. Not only has late presentation of F.O.I. documents been a contributing factor, causing me to be unable to present all the facts as documented in Telecom's own files, but their denials that the files exist has also disadvantaged C.O.T. members.

I again raise the issue of Telecom continually denying that an ELMI tape monitoring device was at the RCM at Cape Bridgewater during the period of May to July, 1993. I have evidence that there was such a device, a six day copy of a tape from a period during May 1993. This tape proves, beyond all doubt, that not only was I losing incoming calls, but my 008 account was incorrectly charged for these non-connected calls. So, not only do we have my claim hindered by the late delivery of documents requested under F.O.I., but it was also hindered by the denials of Telecom Management regarding this ELMI tape monitor being connected to the RCM.

I shall not burden you here with further evidence which has already been submitted to the Resource Team and which shows so many other documents which should have been provided under my previous F.O.I. requests.

So, in response to your letter of 15th November, 1994: How can I amend my claim? Telecom have already had five months to view my first submission as presented in June, 1994, and three months to view my second submission presented in August, 1994. I am already living on borrowed time, in more ways than one, and each delayed week is having an effect, particularly where advertising for next year is concerned - this has already been disadvantaged.

The fact that Steve Black, Customer Response Unit, Telecom refused to give my Real Estate Agent some sort of guarantee that my business phones are now working at Network Standard, further contributed to a non-sale of this business.

COPY

Hunt & Hunt
LAWYERS

21 November 1994

Our Ref: GLH
Matter No:
Your Ref:

BY FAX: (055) 267 230

Mr Alan Smith
Cape Bridgewater Holiday Camp
RMB 4408
Cape Bridgewater VIC 3305

Dear Mr Smith

ARBITRATION - TELECOM

I acknowledge receipt of your facsimile dated 17 November 1994.

If I form the view, or if the Resource Unit forms the view, that there are any relevant documents in the possession of either party which have been deliberately or inadvertently withheld, I shall make an appropriate order for production.

I am prepared to receive submissions at any stage in relation to this issue but, as I have stated previously, I do not believe I will be in a position to assess the merit of any such submission until I have received Telecom's defence documents.

In the meantime, I do not consider it to be necessary or appropriate for me to seek positive undertakings of the nature described in your letter.

Yours sincerely

GORDON HUGHES

CC E Benjamin, W Smith, P Bartlett, J Rundell

28/11/94

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11361319_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 252,** Melbourne.

Hunt & Hunt
LAWYERS

30 November 1994

Our Ref: GLM
Matter No:
Your Ref:

BY FAX: 632 3253

Mr Ted Benjamin
National Manager - Customer Response Unit
Telecom Australia
Level 37
242 Exhibition Street
Melbourne VIC 3000

Dear Mr Benjamin

COT ARBITRATIONS - PREFERRED TIMETABLE

Your letter requesting an extension of time for submitting Telecom's defence in the Smith arbitration (to which I shall respond separately) has prompted me to consider my preferred timetable for the completion of the Smith, Garms and Valkobi arbitrations.

My strong preference is to be in a position to instruct the Resource Unit to commence such initial inquiries and investigations as may be necessary from early January 1995. I understand that the relevant members of the Resource Unit will be available throughout January and I am anxious to make the most of this period.

It is also my preference that the Resource Unit be in a position to evaluate and investigate the Smith, Garms and Valkobi claims simultaneously.

It follows that it is my further preference to receive Telecom's defences in relation to each of these claims, together with the respective claimants' replies (if any), prior to Christmas. This being the case, I would utilise the period between Christmas and New Year to determine what inquiries and investigations should be made by the Resource Unit.

I believe it is in the interests of all concerned for these matters to be resolved as soon as possible. It would not be possible to instruct the Resource Unit in early January 1995 in relation to any or all of the matters if Telecom required the full time permissible under the Fast-Track Arbitration Procedure for the submission of its defence in each case (not to mention extensions) or if the claimants require the full time permissible

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under the Fast-Track Arbitration Procedure for the submission of any replies.

If all parties are anxious for this matter to be dealt with expeditiously, and in particular if the parties are anxious for the matter to progress during the holiday period, all concerned must meet their commitments and exercise their rights within reduced time frames.

It follows that whilst I am prepared to grant an extension of time in the Smith arbitration, I am doing so in the hope that in a spirit of co-operation, Telecom will use its best efforts to submit its defences in Gamms and Valkobi on or before the same date.

If Telecom is able to submit all three defences on or about the same date, I shall prevail upon the claimants to submit their replies (if any) prior to Christmas.

Having said this, I do not intend to place any pressure on any of the parties to compromise their rights under the Fast-Track Arbitration Procedure. The purpose of this letter is to emphasise, however, that an expeditious resolution of these three claims will require co-operation and compromise from all concerned.

I do not propose forwarding a copy of this letter to the claimants as I do not consider it appropriate for me to discuss any individual's claim with other Claimants.

I would appreciate any comments you may have.

Yours sincerely

GORDON HUGHES

CC W Smith, P Bartlett, J Rundell

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FI/DK Ref	DATE	COMPLAINT REPORT	RESP DATE	TELECOM RESPONSE	ADDITIONAL INFORMATION
		PART B			
4.23	10-Jun-94	At 6:17pm, 6:18pm, 6:19pm fax gave only one ring.	14-Jun-94	There is no indication in either CCAS or CCS7 data to indicate the occurrence of these incidents at these times.	Event recording data shows no evidence of the reported condition. No fault found.
4.23	10-Jun-94	At 10:12am, 2:10pm & 9:30pm phone (267267) rang once only. At 2:14pm phone gave 4 rings.	14-Jun-94	CCAS & CCS7 do not indicate any i/c. Call attempt around 10:12. CCAS data indicates 2 i/c calls within 12 secs. At 2:10pm. 1st had 4 rings, not answered. 2nd had 9 rings, answered, duration 2 secs. Call at 2:14pm answered after 2 rings.	All calls originated from Smith's Queensland consultant 074 434022. No faults found.
			14-Jun-94	CCAS & CCS7 do not indicate any i/c. Call attempt around 10:12. CCAS data indicates 2 i/c calls within 12 secs. At 2:10pm. 1st had 4 rings, not answered. 2nd had 9 rings, answered, duration 2 secs. Call at 2:14pm answered after 2 rings.	No fault found.
			14-Jun-94	conversation time of approximately 4 mins. All calls from Qld.	
4.24	11-Jun-94	Smith reported at 8:55am, 9:03am & 5:16pm receiving one burst of ring on phone (055 267267). Service Plus record no S6727410.	14-Jun-94	CCAS data shows 1 i/c short duration call at 8:55am. No indication from CCS7 as to its origin. No other calls appear in CCAS data at the other times the faults were reported.	Investigated, no fault found
4.25	12-Jun-94	Smith received 1 burst ring at 1:05pm & 1:06pm. Believes one call from 074 43 4022 (Plummer & Pullinger). At 1:43pm Smith called 074 43 4022, call dropped out at 1:53pm. Smith rang 132999 @ 1:53pm to report fault, heard male voice on hold, dropped out.	14-Jun-94	Data shows 2 i/c calls at 12:49pm & 12:50pm, both from 074 43 4022. 1st call had 8 rings, unanswered. 2nd call had 2 rings, answered with duration of 2 mins. NNI performed 1000 test calls from Qld to Cape B'water, no failures. W'bool OMG show no faults.	All calls originated from Smith's Queensland consultant 074 434022. No faults found. Note: These reports were entered into Leopard as ROO for both 267267 & 267230 on 14-Jun-94 & 15-Jun-94. Both cleared 16-Jun-94.
		cont. Service Plus record number S6727410			
			14-Jun-94	Data shows 2 i/c calls at 12:49pm & 12:50pm, both from 074 43 4022. 1st call had 8 rings, unanswered. 2nd call had 2 rings, answered with duration of 2 mins. NNI performed 1000 test calls from Qld to Cape B'water, no failures. W'bool OMG show no faults.	No fault found.
4.26	23-Jun-94	Smith reported he received a call from Canberra. A minute after hanging up, phone received one burst of ring. Few mins later Schorer rang from 287 7099. Said he had just called & received busy tone. Smith believes his phone takes up to 90 secs to release.	23-Jun-94	CCAS & CCS7 data shows Schorer's call did encounter busy as Canberra call still in progress. The one ring occurred when another Melb customer terminated after one cycle. Portland staff tested to/from 267267 on 24-6-94. No faults with clear down found.	Investigated, no fault found.
4.26	23-Jun-94	cont. Service Plus record no. S6734712.			
4.27	23-Jun-94	Smith reported that his 008 number service had long post dialling delays and the phone would give 1-2 bursts of ring after he finished a call. Service Plus record no. S6735897.	23-Jun-94	008 staff from Canberra explained to Smith basically how 008 traffic is switched.	
4.28	1-Jul-94	Leopard report - fault reported on 055 267267. Non standard fault, outgoing calls.	1-Jul-94	Exchange investigation, no fault found in evidence.	Investigated no fault found.

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* at 5:48:22 pm Smith dialled 2329999 (an obvious attempt to dial Telecom's 132999 which he successfully did at 5:50:43 pm);

* at 5:48:36 pm Smith dialled 00813 and at 5:48:41 dialled 008 (appear to be unsuccessful attempts to dial his own 008 816 522 number which he successfully did at 5:48:55);

* at 5:48:55 pm Smith dialled 008 816 522 which was his own 008 number which switched to his 267 267 line and was allowed to ring for 8 cycles;

* at 5:49:23 pm Smith again dialled his own 008 number which switched to his 267 267 line and was allowed to ring for 7 cycles;

* at 5:50:43 pm Smith dialled 1329999;

* at 5:50:56 pm Smith successfully dialled 132999 and had a conversation of 3 minutes 1 second.

If Smith picked up and replaced the handset of his facsimile machine as claimed this would have registered in the call data as an outgoing call with no digits dialled.

Conclusion - Investigated by Telecom with no problem being located or subsequent action being required. The above call information indicates that there was no matching outgoing call attempt on Smith's 267 230 (facsimile) service at that time. This is another example where Smith's complaint is not supported by call data.

- On **19 August 1994**, Smith reported that the Australian Federal Police had been trying to call him from Canberra via his 008 number and got busy for 1 hour at approximately 11:10 am. An analysis of CCAS and CCS7 data indicates that Smith was busy on an incoming call from Melbourne for a 22 minute period, during which time 6 call attempts were made to Smith from Canberra which all legitimately received busy tone. The call attempts from Canberra spanned a 20 minute period and not a 1 hour period as was reported by Smith (reference document 4.34).

Conclusion - Investigated by Telecom with no problem being located or subsequent action being required. This incident once again highlights how complaints made by Smith can be the result of bonafide call conditions eg. Smith's line legitimately busy .

THREE

Beaman, Nigel

From: Zeegers, Peter
To: Beaman, Nigel
Cc: Chassling, Barry; Peck, Chris; Belshaw, Dave; Farrell, Bernadette
Subject: RE: 1800 PROBLEMS
Date: Monday, 1 November 1993 10:33AM
Priority: High

I believe the DMS time out problem fix will fix the NSW problem.

Can we not get the admin areas not to be so emotive about terms like "inundated". What we need is facts and to know where , when , who, so faults can be addressed. I've asked Network Engineering to get involved with the fault reporting loop so they have feed back and can fix. All problems should be reported as a fault so they can be recorded and dealt with (and escalated as necessary).

From: Beaman, Nigel
To: Zeegers, Peter
Cc: Farrell, Bernadette
Subject: FW: 1800 PROBLEMS
Date: Monday, November 01, 1993 9:36AM
Priority: High

Peter,

For your information as requested.

Regards Nigel

From: Peck, Christopher
To: Bergin, Maria
Cc: Beaman, Nigel; Hassett, Tony; Petrie, Bruce
Subject: 1800 PROBLEMS
Date: Friday, 29 October 1993 4:17PM
Priority: High

Maria

Just recently the QLD Admin group had a customer who advertised their Freecall as 1800 on TV, press and radio. However some areas from Northern NSW were unable to get through, subsequently the customer is seeking compensation. Now the customer cannot change the number to 008 as this will be far to expensive for his company.

All Admin groups are being inundated with complaints from customers who have advertised their numbers as 1800 but their customers are simply unable to get through to them. I have also spoken to our fault staff out at Waverley who are also being inundated with the same complaints.

Now as far as I can tell we have no way of telling if areas of Australia are having difficulties getting through unless a fault has been placed by the customer ,and this is only stage that it is brought to our attention. All the Admin groups know to refer the fault through to our fault centres, but as you can understand this all goes over like a lead balloon with the customer.

I believe that we should get all the relevant parties together to discuss this problem further before we have another expensive compensation case on our hands.

Christopher

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ATTACHMENT C

Attachment 4

Beaman, Nigel

From: Zeegers, Peter
To: Beaman, Nigel
Cc: Bergin, Maria
Subject: RE: 1800 prefix network conditioning
Date: Monday, 11 October 1993 3:42PM
Priority: High

Nigel
Please accept my apologies. Apparently 1800 99 was left off the original Exchange Data Change Note that conditioned the network for 1800. I only became aware of this today as a result of your message. Network Engineering tell me that it has been identified as an issue for some 3 weeks and that the 1800 implementation working group were aware of it. (1800 747, 767 were excluded as well but we have no working services on this range). In any case it was not escalated.

The data change note to fix 1800 99 went out last week and was completely loaded in WA by last Friday.

Can you let me know of any other complaints and please ask your informants to ensure these are reported as faults so that they are dealt with by operations & maintenance.
Regards

From: Beaman, Nigel
To: Zeegers, Peter
Cc: Morgan, Ken; DiMarzo, Nick; Paxton, David; Stygall, Robert; Farrell, Bernadette; Bergin, Maria
Subject: 1800 prefix network conditioning
Date: Monday, October 11, 1993 12:21PM

Peter,

I am receiving a disturbing number of reports of instances where the 1800 prefix "does not work" in the network.

Unfortunately most of the cases I know of have been reported by customers who have tried to use the new prefix in response to Telecom advertising / advice to do so, only to find that "Telecom has stuffed up again". In at least one case the customer has developed extensive advertising using the new prefix and only found out there was a problem after having committed substantial dollars.

When checked out, these are NOT CPE barring to dial 1 instances but rather legitimate customer claims of a mistake by Telecom where some exchanges were "missed" or in one case in WA where an engineer "didn't like" the number range was approved for use so decided not to open it up" (1800 99X XXX range)

Commercial only went ahead with our marketing campaigns based on several assurances from you that the network conditioning would be completed and then an assurance that it had been completed post 20/9/93.

Given we are now part way through a major Direct Mail national campaign launching Freecall 1800 Statewid I need to know the extent of the problem of missed areas across the country.

When I spoke to Maria about organising a test across the network, she said she did not think there was any process in place to run such a test and that I should address the problem to you and your area.

Surely there is a way to organise for a simple test call to be made from every exchange to a test Freecall 1800 number with a follow up confirmation to a central (fault reporting area perhaps) location that the call either did or did not get through.

Please respond ASAP as I have sales and sales support staff buying time with customer waiting for a response.

122D H36

Telecom AUSTRALIA

Internal Memo

Commercial & Consumer
Office of Customer Affairs
37/242 Exhibition Street
Melbourne
Victoria, 3000
Australia
Telephone (03) 634 7981
Facsimile (03) 632 3041

To Harvey Parker
Group Managing Director - Commercial and Consumer

From Greg Newbold
Group Communications Manager

Subject Serious 1800 problem

Date 5 November 1993

File

Attention cc: David Castle Chief Operating Officer - Commercial and Consumer

URGENT

Harvey,

Your 1800 Staff Comms line has generated a call from Bruce Petris (008 819 164) from Commercial Special Services (rating area) at Glen Waverly who advises that the 1800 service has defects which in some cases are preventing the connection of customer calls. Customers instead get a recorded voice announcement saying that the service is unavailable. Also there is Post-Dialling Delay of up to 20 seconds which means that a customer will think their call hasn't gone through and will hang up.

The matter is under active management - a software change is required to fix part of the Post-Dialling Delay problem and this is expected to be implemented today by the manufacturers of the 1800 equipment. The remainder of the problem is being dealt with by the Interconnect group located in Hobart as they hear about each fault.

The issue of non-connected calls leading to RVAs is also being dealt with in Hobart on a similar basis.

Bruce has been informed that a Queensland customer is seeking compensation for an extensive 1800 advertising campaign which allegedly didn't work and Bruce is further advised that there are many other customers considering similar action.

Bruce is concerned that the matter requires dealing at a national network level not just on a fault by fault basis. He also raises the question whether we should be actively promoting 1800 in the current circumstances.

regards,

Greg Newbold.

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AUSTEL

AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

92/0596(8)

27 January 1994

Mr S Black
Group General Manager -Customer Affairs
TELECOM

Facsimile No: (03) 632 3241

Dear Mr Black

ISSUES RAISED BY MR ALAN SMITH - CAPE BRIDGEWATER HOLIDAY CAMP

Mr Alan Smith has recently raised a number of issues relating to his service generally and to his 008 service. AUSTEL requests that you investigate and report on the issues raised by Mr Smith as detailed below. The 008 issues relate to the period covered by Mr Smith's most recent bill. A copy of the relevant page of this bill is attached with this letter.

(1) Mr Smith's 008 bill records 4 calls made on 5 January 1994 from the origin 05521. These call were made between 4.29 & 4.39 pm. Mr Smith states that he did not receive these calls. He has investigated the matter himself and established that the calls were made from 055 212 671, being the facsimile number of the Portland Tourist Bureau. Evidently the Manager of the Tourist Bureau, Ms Burch, tried to send a facsimile to Mr Smith on the wrong number. Mr Smith states he did not receive these calls on the date and time in question, and is adamant that no calls with a fax tone were answered by him on this date. He is 95% sure that his phone did not ring on the date and time in question.

In responding to this issue, can you please address the possibility that calls may have been incorrectly switched elsewhere in the network than Cape Bridgewater Holiday Camp, and that the charging system servicing Mr Smith is operating inaccurately.

(2) Mr Smith's 008 bill records 3 calls made on 13 January 1994 around 1.50 pm from the origin 03 580. These calls were all of short duration, being respectively of 4, 8 and 20 seconds duration. Mr Smith has stated that Tina Velthuyzen (telephone number 03 580 4710) rang Mr Smith once on his 008 number on 13 January around 1.50 pm, conversing for approximately 10 minutes. (Two calls were also made by Ms Velthuyzen at 11.38 am and 11.46 on 13 January - there is no dispute with these calls.) Mr Smith has

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stated that Ms Velthuyzen will corroborate his statement of the call made at 1.50 pm. Mr Smith is concerned with the integrity of the 008 billing system, as the bill data does not correspond with Ms Velthuyzen's and his recollection of calls made at this time.

(3) Mr Smith's 008 bill records a call made on 16 January at 7.23 pm of duration 16 minutes 24 seconds. Smith said he has no recollection of this call and questions whether it was made.

In responding to this issue, can you please provide the full telephone number of the party making the call to Cape Bridgewater at this time and date.

(4) Mr Smith has also sought advice as to whether his service has been subject to either recording or voice monitoring at any time and, if so, when and for what purpose.

(5) Mr Smith is preparing his fast track settlement claim. An aspect of this apparently involves the identification of two test calls included in a previous bill. At Mr Smith's request the identification of the Telecom personnel who made these calls was sought by AUSTEL in a letter dated 15 October 1993 but was declined by Mr Pinel on the grounds "that further detail as to the purpose and intent of this information" was required before identification would be considered. (Letter dated 8 November 1993.) Regardless of the rights or wrongs of that decision, Mr Smith now seeks a statement from Telecom that its personnel did make these calls at the time and for the duration shown - for this purpose the identification of the personnel is not required.

(6) Finally, regarding the ELMI tape left inadvertently at his premises, Mr Smith has asked the significance of the arrows drawn on the tape and for a statement of the quality of service for the seven days in question.

Can you please respond to the matters raised in this letter by 4 February 1994. If you have any queries on matters raised in this letter, please contact Bruce Matthews on 828 7443.

Yours sincerely

John MacMahon
General Manager
Consumer Affairs

cc Mr A. Smith

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TELECOM IN CONFIDENCE

ATTACHMENT FOUR

An update to previous correspondence

Internal Memo

Telecom AUSTRALIA

To Trevor Hindson
Special Case Investigation Coordinator

From Rod Hurman
Manager, Charging and Billing Projects

Subject Short Duration Calls, Mr A. Smith.

Date 25 November 1993

File

Attention

Corporate Centre
Charging and Billing Directorate
Brisbane

6/131 Barry Parade
Fortitude Valley, 4006

Australia

Telephone (07) 838 6791
Facsimile (07) 832 5657

A00751

Ms Ann Law

Trevor,

I have reviewed the letter and documents from Mr. A. Smith concerning evidence claiming to support charging of unsuccessful calls. As you indicated it is difficult to respond to the specific cases mentioned as the facts presented are third hand and limited to the bare customer perceptions. We have no opportunity to perform tests to confirm or contest the allegations. In some instances the text of the letter is conflicting or ambiguous.

In response to Mr Smith's questions (1&2), he should be assured that,

" Telecom does have clearly defined policies and principles for call charging and billing.

- *Customers will be charged only for calls which are answered.*
- *Unanswered calls ARE NOT charged."*

Unanswered calls include calls encountering engaged numbers (busy), various Telecom tones and Recorded Voice Announcements as well as calls that 'ring out' or are terminated before or during ringing.

If a customer is charged for a call that was unanswered (that is truly unanswered by the Customers Premises Equipment (CPE) where the call terminates, not just as perceived by the customer at either end), then there must be a technical fault that, when identified, should be investigated and corrected. Databases and analysis systems exist for this purpose.

Mr Smith is obviously well aware that CPE is a significant source/cause of charging and billing disputes, particularly those involving short calls which the customer believes were unsuccessful and should not be charged; telephone answering machines, facsimile terminals an call diverters typically are at the centre of these disputes. CPE apart, as with any technical system, faults may occur in the network, however exhaustive testing over a prolonged period has failed to locate any systemic fault that would cause erroneous charging of unsuccessful calls. While faults are detected from time to time, these have been rare, isolated and unrelated to each other.

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ATTACHMENT FOUR.

The facts as presented in this case are not sufficient to make a definitive technical judgement of whether a fault did occur in the Telecom network to cause over charging. From a technical point of view it is unreasonable to make all assumptions in the customers favour without further investigation being carried out.

The following is an assessment of the individual disputes highlighted by Mr Smith.. From the information given, little more can be offered for explanation than " *This is not the way it should work, we need to investigate to find the cause*". For any investigation to be effective it would need further information and the participation of both parties involved in the calls. I leave any decision for further investigation in your hands, as local action may already have been instigated, but would be happy to arrange an investigation if required.

1. **Calls to Traralgon, being charged on busy.**

   This situation should not have occurred. If there is no customer error (including CPE), some basic investigations could be carried out, both on the customers circuit (charge check) and at the local exchange. Extensive tests could be done between the two customers, but only after verifying the customer component of the call.

2. **Calls to Overseas destinations, being charged when "no answer".**

   This is further complicated by the overseas end of the call. An answer signal may have been generated when it should not have been by the overseas destination, or an answer signal wrongly detected in the international networks. When received by Telecom equipment, this is an instruction to begin charging. Some overseas telephone administrations do return an answer signal when the call is not answered by the called party, even though this is against international agreements. To the best of my knowledge neither New Zealand or USA is noted for this; International Business unit will be advised of this possibility for future reference. Unless the customer also experienced an "error" similar to the Traralgon incident, there is no direct evidence to assume a local fault.

3. **Calls to RVA.**

   Though it is not stated what RVA was heard, being charged for RVA is not a correct operation and should be investigated and corrected. The investigation would depend on the RVA heard and the calling party. Again more information is required.

Mr Smith also noted call drop-outs as causing over charging (I assume 'drop-out' here means that ring tone is heard only then for the call to drop-out; or the call may in fact be answered and then drop-out). There are many reasons for a call to 'drop-out': some may be technical faults in the telephone network, others can be customer or CPE related. Where the caller has been charged for the call, it is often the case that the called party (or CPE) did answer, but for some reason the call dropped out eg an answering machine with no voice recording on it may answer the call. Alternatively a network fault could 'trip' the ring eg a line fault in the CAN. Once the network detects an answer signal it quite correctly initiates charging. The calling customer no doubt would assume the call was not effective (ie no conversation), and would have an understandable concern that they may have been over charged. Where the drop-out is caused

by a proven technical fault, the call charges should be rebated. Drop-out investigation is often difficult due to its intermittent nature. Pattern analysis of reported faults is performed and faults corrected are when identified.

The Charging and Billing Directorate (Brisbane) in conjunction with an independent research agency is undertaking an investigation into customer perceptions of charges for short calls, which includes calls that a customer believes should not have been charged.

In response to Mr Smith's question, 'Does Telecom deny overcharging exists in their billing system ?,' he should be made aware that ,

- *The system is designed to charge accurately - that is not to over or undercharge.*
- *While isolated faults may occur, as with ant technical system, they are extremely rare and small in number, and not systemic in nature.*
- *A program of continual testing is undertaken to check the accuracy of the system and to detect and correct faults should they occur.*
- *The billing system has a series of in built diagnostic designed to detect indication of significant overcharging on individual customer's accounts*

In conclusion, the scarcity of information makes it difficult to answer the customer's questions in any depth - more details are required and if forth coming I would be pleased to arrange a special investigation. I hope that this information is adequate to form a reply to Mr. Smith. As I will be on leave until mid January, please call Peter Foster (07 838 6201) if you have any queries or require further assistance.

Rod Hurman
Network and Technical Projects,
Charging and Billing Directorate.
3.12.93

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ATTACHMENT 4

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

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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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

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

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.

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

DECLARED at Melbourne)
in the State of Victoria)
this 15th day of December 1994.)

Peter H Gordon

.....

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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Days went by and Blount hadn't heard a thing. Finally, a young woman arrived in his office whom Blount learned was a bright MBA graduate with responsibility for the 1-800 product. Again, Blount recalls the conversation:

> *Blount: 'I want to talk about the 1-800 service.'*
> *Staff: 'Yes, sir.'*
> *Blount: 'There are some issues that have arisen on the product management side, specifically maintenance of the product, fixing some problems with it and how it is billed.'*
> *Staff: 'I know the type of things you are talking about, sir, because we studied product management in school, but, strictly speaking, my job was to launch the product. I have no way of knowing how it performs once it has been launched.'*

Blount was shocked, but his anxiety level continued to rise when he discovered this wasn't an isolated problem. Product management as Blount knew it in a competitive environment was non-existent. There was no overall coordinating role to monitor the performance and profitability of products and modify them as required. He moved immediately to demonstrate the importance Telstra would have to place on products to compete effectively:

> *I'd often seen approaches that would try to solve world hunger but they didn't get any traction because they operate at such a high level. I decided to pick one product and understand everything about it.*

Blount asked his 1-800 'product manager' to put together a team to analyse all aspects of the product and provide a snapshot of what an ideal product should look like. Blount then arranged a two-day retreat for his senior managers to take them through

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the product management case study. Fifteen stations were set up around the conference site staffed by junior managers. Each member of the senior team rotated through the stations dealing with all the aspects of basic product management:

- how the product was designed;
- time-to-market;
- provisioning;
- training/selling;
- how it was working in the field;
- the fault rate; and
- the billing 'system'.

The picture that emerged made it crystal clear that performance was sub-standard. Costs were too high. Time-to-market was too long — at least 18 months from conception to launch. There was no accountability for the profit and loss of a product, so the company didn't track its performance once it was in the marketplace. And on a broader level, the number of new product innovations was tiny — only around two dozen a year.

The exercise worked brilliantly. The Telstra senior team realised the power of proper product management and the light-year leap it would take to get Telstra up to scratch. Blount's gut told him that to fully redress this problem and lift product management up in the eyes of the organisation as a whole, he would need to appoint a Group Managing Director for Product Management. The logistics of doing so immediately proved too difficult to orchestrate at that early stage, so Blount agreed to have a product manager in each business unit who would report to each of the GMDs. With the massive change being undertaken and the resulting competing interests, Blount was not satisfied with how things were progressing. The will was there to take on the product difficulties, but successful execution failed to

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94/0269

AUSTEL

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

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AUSTEL

AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

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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 6.3, 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

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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

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Telecom AUSTRALIA

Corporate Centre
Corporate Secretariat

Level 37
242 Exhibition Street
Melbourne Vic. 3000

Telephone (03) 634 2977
Facsimile (03) 632 3235

22 December 1994

Mr Alan Smith
Cape Bridgewater Holiday Camp
CAPE BRIDGEWATER VIC 3305

Dear Sir

FOI - Internal Review

I refer to Telecom's letter to you of 16 December 1994 which was delivered with a box of documents being documents specific to your telephone service.

Six boxes of documents known as "general files" which are relevant to your FOI requests accompany this letter. These documents have been granted to you after a further review of those documents which were withheld from you originally.

There is a folder for each file. It contains all documents which, as a result of this review decision, will now be released. **The folder does not include documents that you received in full as a result of the previous decision.** There is a table inside each folder describing each of the documents.

Documents are described as either A, B or C. The documents described as "A" are all documents which are fully exempt. The documents described as "B" are provided to you with some material deleted, those deletions being the names of other customers and other individual businesses. The documents described as "C" are documents to which full access is being given.

Where a document is listed as new, it was not previously considered by Telecom and therefore no record of any earlier decision would exist. In that case the previous review column is blank.

If you are not satisfied with the quality of the copy of any document released, another copy of that document will be reprovided upon request.

The quality of any copy depends on the quality of the original. The documents are sorted in each folder in some or all of the following bundles;

Bundle 1 - Documents that were missing from the released version of the file that was provided to you at the time of the previous decision.

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Bundle 2 - Documents which were, in the previous decision, wholly exempt (described as A) but are now released and described as B or C.

Bundle 3 - Documents which did not appear in the tables at the time of the previous decision but now appear in B or C.

Bundle 4 - Documents which, in the previous decision, had the names of Telecom employees deleted.

Reasons for the exemption of certain documents and certain parts of documents shall be forwarded to you in the very near future.

Yours faithfully,

Ted Benjamin
National Manager
Customer Response Unit

encl:-

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A63912

AUSTEL

AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

94/0269

4 October 1994

Mr S Black
Group General Manager
Customer Affairs
TELECOM

Facsimile No: (03) 632 3241

Dear Steve

CHARGING DISCREPANCIES REPORTED BY ALAN SMITH AND ISSUES RELATED TO SHORT DURATION CALLS ON 008 SERVICES

Mr Alan Smith of Cape Bridgewater Holiday Camp has recently written to AUSTEL complaining of a number of charging discrepancies occurring on his 008 service. A copy of Mr Smith's letter is attached, as is an accompanying sheet which contains 008 bill data over the period 27 May to 29 May 1994 in comparison with other incoming call monitoring data over the same period.

Mr Smith has previously raised some of the issues identified in his letter with AUSTEL but had requested that AUSTEL not take them up on his behalf as he was concerned they may conflict with his "Fast Track" Arbitration process. AUSTEL seeks a response on the following issues.

(1) Mr Smith states that a caller to his 008 number experienced 3 occurrences of a "not connected" recorded voice announcement (RVA) on 27 May 1994 between 7:51 pm and 7:59 pm. Mr Smith states that "these faults" were reported to Telecom's 1100 number. AUSTEL requests that Telecom provide details on the investigations made into the fault report(s) and any findings made on this issue.

(2) Was Mr Smith informed of the results of any investigations conducted in regard to the RVA report(s) identified in (1)? If not, why not? 126

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(3) AUSTEL notes that regardless of Telecom's findings on the RVA issue identified in (1), there appears to be a significant discrepancy between the duration of one call identified on the 008 bill and the duration of that call as identified on the "monitoring data". The relevant call appears on the 008 bill against the code "23-9" and is logged as being of 3 minutes 15 seconds duration. On the "monitoring data" what appears to be the same call, made on 27 May 1994 at 19:58:46, is logged as being of 2 minutes 46 seconds duration. AUSTEL requests that Telecom explain this discrepancy if this issue has not been dealt with in the reply to (1).

(4) Mr Smith's bill for his 008 service details one call (code 23-12) as being of 1 second duration. The call data has no information detailing the origin of the call. AUSTEL requests that Telecom explain the circumstances which may have led to this "short duration" call and why no data is provided on the origin of the call.

(5) AUSTEL is aware of another Telecom customer in the Portland region, Mr Jason Boulter of the Malaleuca Motel (008 034 449), who maintains that many "short duration" calls are occurring on his 008 bills. This customer suspects that these "short duration" calls represent call attempts by potential clients to contact his business which are not received at his premises. AUSTEL requests that Telecom provide a comprehensive explanation of the possible causes of "short duration" calls on 008 services. Telecom's response should specifically address the issue raised by Mr Boulter. AUSTEL is aware that Telecom is currently investigating the general issue of "short duration calls", but is also aware that 008 services are not included in this investigation.

(6) Telecom is requested to respond to Mr Smith's claim that on his 267 230 service he is being charged "on average 11% over charged seconds".

(7) The central issue raised by Mr Smith in his letter is that he is being charged for calls that do not connect to his 008 service. The calls identified in (1) are cited by Mr Smith as instances of

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such calls. Telecom is requested to specifically address this issue in its response. 121

For clarification of any of the matters raised in this letter please contact Bruce Matthews on (03) 828 7443.

Yours sincerely

B. D. Matthews

Bruce Matthews
Consumer Protection

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FAXED 11/11/94

Telecom AUSTRALIA

11 November 1994

Customer Response Unit
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Australia
Telephone 03 634 2977
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By facsimile: 820 3021

Mr B Matthews
AUSTEL
PO Box 7443
St Kilda Road
MELBOURNE VIC 3004

Dear Sir,

CHARGING DISCREPANCIES RECORDED BY ALAN SMITH AND ISSUES RELATED TO SHORT DURATION CALLS ON 008 SERVICES

I refer to your letter dated 4 October, 1994 to Mr Steve Black. I am responding to this letter as the Manager responsible for handling Mr Smith's dispute with Telecom.

You have requested Telecom to provide to you information relating to charging discrepancies reported by Mr Smith in relation to short duration calls on his 008 services together with other information.

Each of the questions put by you in your letter of 4 October, 1994 will be answered as part of Telecom's defence to Mr Smith's claims lodged under the Fast Track Arbitration Procedure. As you are aware, information relevant to defence documents are confidential under the procedure and may not be made known to third parties. The Fast Track Arbitration Procedure was established with the input and consent of Austel.

In respect of the confidentiality aspect, the Arbitrator has advised Telecom that he considers that the parties (to the arbitration) must remember at all times that these proceedings are subject to the confidentiality provisions set out in clauses 16-19 of the Fast Track Arbitration proposal. In particular, Telecom has been asked to bear in mind that a breach of confidentiality (even inadvertently) could lead to a dismissal of the claim pursuant to Clause 12 of the proposal.

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Mr Smith himself is obviously concerned about these implications as your letter advises that he has raised this very point with you and was concerned that any action by Austel may conflict with the Fast Track Arbitration process.

If the information requested is provided to you outside of the approved Arbitration Rules, other parties to the Fast Track Arbitration Procedure may also seek other information through you and expect answers in like manner. I believe that this will prove dysfunctional to an orderly and manageable arbitration process and could possibly lead to its breakdown. It would also involve Telecom in breaking its confidentiality undertaking under the Fast Track Arbitration Rules.

Mr Smith, of course, has rights under the Arbitration Rules to request the Arbitrator to provide him with relevant information at any time and Telecom has indicated that it will comply with a directive of the Arbitrator to provide information.

In these circumstances, Telecom finds itself faced with two conflicting obligations; that to Austel and that to the confidentiality requirements of the arbitration process. It is Telecom's view that Mr Smith's interests are more than adequately protected by the Austel approved arbitration process and that the issue should be left in the capable hands of the Arbitrator to determine the appropriate remedy, if any, for Mr Smith.

I would appreciate your comments on how this complaint might be resolved.

Turning from the particular issue of Mr Smith to the general question of the operation of the 008 service, Telecom considers that the 008 service operates satisfactorily and does not raise any issues of concern. If you require specific information on the general principles of operation of the 008 service, Telecom is happy to respond.

Yours faithfully,

Ted Benjamin
National Manager
Customer Response Unit

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