CAV
CHRONOLOGY
LGE

Exhibit 324-a to 420

Senator Barnaby Joyce
The Nationals' Senator for Queensland

Sen The Hon. Helen Coonan
Minister for Communication, Information Technology and the Arts
Parliament House
Canberra ACT 2600

16 November 2006

Dear Senator Coonan Helen,

CoTs cases and related disputes

I must remain with my commitment to the people involved with the CoTs cases. The commitment is representing their frustrations and finding a resolution to the issue.

The resolution to the issue, is referenced in your letter of 13th September 2005, where you state "I agree that there should be finality for all outstanding "COT" cases and related disputes. I believe that the most effective way to deal with these is for me to appoint an independent assessor to review the status of all outstanding claims".

This agreement I believe is the only way a satisfactory resolution can be achieved.

I realise that my only influence is that of persuading you and I must endeavour to keep the door open on this issue.

Yours sincerely

Senator Barnaby Joyce
The Nationals Senator for Queensland

90 The Terrace, St George QLD 4487
senator.joyce@aph.gov.au - www.nationals.org.au
ph: 07 4625 1500 Freecall 1300 658 125 • Fax: 07 4625 1511

324A

1

Seal Cove Guest House
1703 Bridgewater Road
Cape Bridgewater
Portland 3305
Phone/Fax: 03 55 267 170

28th January 2008

Ms Clare O'Reilly
Australian Communications & Media Authority
Level 15, Tower 1, Darling Park
201 Sussex Street
Sydney NSW

Dear Ms O'Reilly

Letter one

The information following this paragraph is an almost identical replica of the content of my letter dated 19th January 2008, to Ms Jodi Ross, Principal Lawyer ACMA. Ms Ross informed me today, via email that you are now my contact within the ACMA, until her return 31 March. So there is no confusion as to my concerns regarding the charges being applied by the ACMA, for my latest FOI requests, I have forwarded this correspondence entitle Letter one.

I refer you to the attached letter dated 15th September 2005, from Senator Barnaby Joyce, to me noting: *"As you are aware, I met a delegation of CoT representatives in Brisbane in July 2005. At this meeting I made an undertaking to assist the group in seeking Independent Commercial Loss Assessment relating to claims against Telstra. As a result of my thorough review of the relevant Telstra sale legislation, I proposed a number of amendments which were delivered to Minister Coonan. In addition to my request, I sought from the Minister closure of any compensatory commitments given by the Minister or Telstra and outstanding legal issues. In response, I am pleased to inform you that the Minister has agreed there needs to be finality of outstanding CoT cases and related disputes. The Minister has advised she will appoint an independent assessor to review the status of outstanding claims and provide a basis for these to be resolved.*

I would like you to understand that I could only have achieved this positive outcome on your behalf if I voted for the Telstra privatisation legislation.

My involvement in this DCITA assessment process in 2006 cost me quite a few thousand dollars and it turned out to be a sham anyway, as can be seen by the attached copy of an email sent by Senator Coonan's advisor (David Lever) to the TIO (John Pinnock) on 21st December 2005, noting that: *"The assessment will <u>focus on process</u> rather than the merits of claims, including whether all available dispute resolution mechanisms have been used."*

The Federal Liberal Government clearly misled Senator Joyce in a deliberate move to secure his vote so they could pass the legislation required for the privatisation of Telstra but, once this aim

had been achieved, Senator Coonan executed a 'back-flip' on the Government's commitment to Senator Joyce. Mr Lever's email is quite clear – neither he nor the Minister ever had any intention of honouring the commitment given to Senator Joyce. Not only did Senator Coonan and Mr Lever go back on their promise to Senator Joyce, but Mr Lever wrote to me on 17th March 2006 (attached), before I signed the DCITA assessment agreement, guaranteeing that: *"If the material you have provided to the Department as part of the independent assessment process indicates that Telstra or its employees have committed criminal offences in connection with your arbitration, we will refer the matter to the relevant authority."* The ACMA, the TIO and DCITA all know that Telstra relied on fundamentally flawed and manufactured reports to support their defence of my arbitration claim, but this evidence was not referred to *"...the relevant authority"* as Mr Lever promised. Mr Lever's promise to involve *"...the relevant authority"* was what brought me to the decision to join the DCITA process but again the department back-flipped on their written commitment.

The fourth email attached here, dated 19th October 2005, from David Lever, indicates that I was not the only person misled by a promise of individual assessment and a back-flip to an 'assessment of process' only. Mr Lever notes that 'Jodi' *"... may be getting confused about what the assessment is meant to do (or at least what we are recommending) i.e. an assessment of process and what further resolution channels may be available to people. We are arguing strongly that the assessment should not be about the merits of each case."* Whoever 'Jodi' is it seems, from Mr Lever's comments, that she expected the DCITA process to assess each claim, not just the process and how it worked. How much more proof does the ACMA really need? It is obvious that the DCITA assessment process did not, and was never intended to, assess the claims submitted by the COTS on their individual merits.

The negation of these Government guarantees is an enormous indictment against Australian democracy.

Because of the expense of the allegedly independent and, as it turned out, quite useless, DCITA assessment process, I can now not afford the $300.00 price tag that the ACMA has put on my latest FOI request, as quoted in your letter of 18th January 2008, and I am therefore asking that the ACMA please take into account how the Department misled me into spending thousands of dollars in 2006 when there never was any intention of independently assessing my claim material on its merit, and so waive the current FOI charges as a gesture of goodwill.

Thank you,

Alan Smith

/

Seal Cove Guest House
1703 Bridgewater Road
Cape Bridgewater
Portland 3305
Phone/Fax: 03 55 267 170

28th January 2008

Ms Clare O'Reilly
Principal Lawyer
Australian Communications & Media Authority
Level 15, Tower 1, Darling Park
201 Sussex Street
Sydney NSW

Dear Ms O'Reilly,

Letter two – FOI request dated 6 December 2007.

In my earlier letter of today's date (letter number one) I have described the grave miscarriage of justice I have suffered, from 1988 onwards, and explained how this should have been (but was not) settled by an AUSTEL-facilitated arbitration in 1994.

My first letter also asked ACMA to waive all the charges associated with my December FOI request, because of the aforementioned miscarriage of justice. Although I am still hopeful that ACMA will eventually agree to waive the FOI charges, I have now been advised that, while I wait for ACMA's final decision, I should forward the enclosed deposit of $72.92, to 'get the ball rolling'.

I remain hopeful that the FOI charge will be waived in full.

Sincerely,

Alan Smith

(Cheque for $75.00 enclosed)

324B

Seal Cove Guest House
1703 Bridgewater Road
Cape Bridgewater
Portland 3305
Phone/Fax: 03 55 267 170

30th January 2008

The Hon David Hawker
Federal Member for Wannon
Parliament House
Canberra 2600

Dear Mr Hawker,

By now you would have received my letter dated 21st January 2008, which was sent both by email, and in the post to your Electorate Office at 190 Gray Street, Hamilton.

Another letter, dated 19th January 2008, to Ms Jodi Ross, Principal Lawyer at the ACMA, was attached to my letter to you – the letter and attachments to Ms Ross explained how and I was misled into believing that the then-Minister for Communications would honour the commitment she gave to Senator Joyce in return for his crucial vote regarding the Telstra privatisation bill. The new evidence I have just received, and which was attached to my letter to Ms Ross, clearly shows that none of the claim material I provided to the Minister's allegedly independent assessment process, or even any of the material you submitted to her office on my behalf, was ever assessed on its merits. I wonder how you feel now, knowing that even the claim material you provided to the Minister on my behalf wasn't assessed on its merits? This does, however, demonstrate just how powerful Telstra is since they obviously have enough inside Government influence to be able to change one Minister's commitment to another (i.e. Senator Coonan's commitment to Senator Joyce).

The attached brief summary includes some of the issues I raised in my two letters to Ms Ross, on 19th and 28th January; my letter dated 28th January to Ms O'Reilly of the ACMA; and my letter to you on 21st January.

Since I first started corresponding with you in 1992, regarding my unresolved Telstra issues, I have always been open and honest in my efforts to have my Telstra matters correctly and transparently assessed but, even after two separate assessment processes and a legal arbitration, this has never happened.

I would be grateful if you would let me know, as soon as possible, if there is anything you disagree with in the attached *"Chronology"* document.

Once again, I must thank you and the staff in your office in Hamilton for your patience over the years.

Sincerely,

Alan Smith

324C

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1703 Bridgewater Road
Cape Bridgewater
Portland 3305
Phone/Fax: 03 55 267 170

2nd February 2008

The Hon David Hawker
Speaker in the House of Representatives
Parliament House
Canberra 2600

Dear Mr Hawker,

As you will now know, from my letters of 21st and 30th January 2008 and the attached copies of letters, dated 19th and 28th January, to Jodi Ross and Claire O'Reilly at ACMA, even documents you forwarded to the Minister on my behalf were never assessed on their merits by assessors appointed by the Minister because, as my letters to ACMA show, Senator Coonan's agents actually admitted, in internal emails, that they never had any intention of assessing my claim material on the merit of the information provided, or that of any other COT claimants either, and yet they let us waste our money preparing and forwarding our claim documents in the belief that they would be properly independently assessed.

I have always endeavoured to be totally open and honest in my dealings with your office regarding Telstra and, as you know, I have always sought your approval in the past before sending any correspondence that referred to you. I followed this process again in my letter to you on 30th January when I asked if you would *"... let me know, as soon as possible, if there is anything you disagree with in the attached "Chronology"..."* (a one-page document). I do not expect a response to that question at the present, but I believe it is important that you have the attached document as soon as possible. This attached document is copy of an email from Ronda Fienberg, my Melbourne-based secretary and it is startling information, directly related to my allegations regarding Senator Coonan's allegedly 'independent' assessment process.

As you can see, yesterday (1st February 2008) Ronda received confirmation from Senator Coonan's office that they had deleted (without opening or reading) two emails Ronda had sent directly to Senator Coonan on my behalf in 2006. Both these emails related to Senator Coonan's so-called 'independent' assessment process – the process in which these documents should have been assessed. One of the documents is dated 23 April **2006** and the other 25 July **2006**, but they were deleted yesterday, 1st February **2008** at 15:56:23 and 16:56:35 respectively.

Perhaps the correspondence I have recently sent to ACMA, Senator Joyce and your office, in relation to DCITA's misleading and deceptive conduct, has been forwarded to the Minister's office for investigation and this may have prompted Senator Coonan's advisors to shred documents and delete emails regarding my unresolved Telstra matters. Whatever the reason for deleting unread claim related emails, it seems that Senator Coonan's people were not aware that deleting the emails without opening them could automatically send a message back to the sender (in this case, my Melbourne-based secretary) to notify the sender that the message had been deleted without being opened (see attached document). As you know, many of my 'independent'

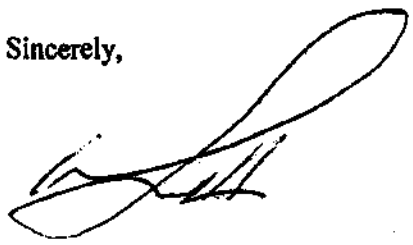
claim assessment documents were emailed to Senator Coonan and many of them included multiple pages.

As you are not only the Speaker in the House of Representatives but also my Federal Member of Parliament, you have a duty of care to instigate an investigation into why the Minister's office misled us both into believing that my unresolved Telstra related matters would be assessed on their merits when this new evidence proves that my claim related emails were not even opened in Senator Coonan's office, at the time of this alleged independent government facilitated assessment process.

Clearly the one crucial vote that the Government needed to pass the Telstra privatisation (Senator Barnaby Joyce's vote) was given on the base of a commitment that Senator Coonan never had any intention of honouring – that an independent assessor would be appointed to value the COT claimants' evidence – and then some of the evidence I forwarded was never even read, let alone assessed. This is a sad indictment of the Australian justice system and I am owed an explanation.

Please inform me as soon as possible, that you have instigated an inquiry into this misleading and deceptive conduct as soon as possible. How can a Senator, elected by the Australian public, be allowed to get away with executing such a complete back-flip on a commitment given to another Senator?

Sincerely,



Alan Smith

cc Senator Barnaby Joyce, Senator for the Nationals Queensland (Parliament House Canberra)

324 D

capesealcove

From: "Ronda Fienberg" <rondagf@optusnet.com.au>
To: "Smith, Alan" <capecove12@bigpond.com>
Sent: Saturday, 2 February 2008 10:52 AM

Well, here's a couple of interesting emails that landed in my email inbox this afternoon! As you can see, Senator Coonan's office must be having a big clean up of their emails and these two emails I've sent on your behalf back in 2006 have just been deleted -- today! Can a Senator legally delete correspondence from a citizen without reading it?

Ronda

MESSAGES RECEIVED THIS AFTERNOON ARE:

Your message

To: Coonan, Helen (Senator)
Cc: Lever, David; Smith, Alan
Subject: ATTENTION MR JEREMY FIELDS, ASSISTANT ADVISOR
Sent: Sun, 23 Apr 2006 17:31:41 +1100

was deleted without being read on Fri, 1 Feb 2008 16:56:36 +1100

Your message

To: Coonan, Helen (Senator)
Cc: Smith, Alan
Subject: Alan Smith, unresloved Telstra matters
Sent: Tue, 25 Jul 2006 00:00:42 +1100

was deleted without being read on Fri, 1 Feb 2008 16:56:23 +1100

324D

THE HON DAVID HAWKER MP

SPEAKER OF THE HOUSE OF REPRESENTATIVES
FEDERAL MEMBER FOR WANNON

10 March 2006

Mr Alan Smith
1703 Bridgewater Rd
CAPE BRIDGEWATER VIC 3305

Dear Alan

I wish to acknowledge receipt of your correspondence dated 23 February and 27 February along with you facsimile transmissions of 6 and 9 March. I will ensure this material, including the corrected version, is forwarded to Minister Coonan.

In the meantime enclosed for your records is a copy of an interim reply relating to earlier representations I made on your behalf.

Yours sincerely

THE HON DAVID HAWKER, MP
Speaker of the House of Representatives
Member for Wannon

Enc

Ref: fb/dh:mc

324E

[redacted]

Hunt & Hunt
LAWYERS

31 March 1994

Our Ref: GLH
Matter No:
Your Ref:

BY FACSIMILE: 287 7001

Mr Graham Schorer
Golden Messenger
493 Queensberry Road
North Melbourne Vic 3000

Dear Graham

COT MATTERS

I am enclosing the latest draft of the Fast Track Arbitration Procedure which has been forwarded to me today by Messrs Minter Ellison Morris Fletcher.

I have not yet had an opportunity to closely peruse the document. I shall do so over the Easter break with a view to forming an opinion as to whether I consider it to be in a form that I would recommend the parties sign.

I understand all claimants will be in Melbourne on Friday, 8th April 1994. I propose that the parties meet at the offices of Messrs Minter Ellison Morris Fletcher on that day with a view to finalising negotiations.

Please let me know if you will be available to attend the meeting on 8th April at a time to be advised.

Yours sincerely

GORDON HUGHES

325A

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

by being delivered by hand or sent by prepaid mail.

Liability of Administrator and Arbitrator

24. Neither the Administrator nor the Arbitrator shall be liable to any party for any act or omission in connection with any arbitration conducted under these Rules save that the Arbitrator (but not the Administrator) shall be liable for any conscious or deliberate wrongdoing on the Arbitrator's own part.

25. The liability of Ferrier Hodgson and the partners and employees of Ferrier Hodgson for any act or omission in connection with any arbitration conducted under these rules (other than in relation to a breach of their confidentiality obligations) shall be limited to $250,000 jointly.

26. The liability of DMR Group Australia Pty Ltd and the directors and employees of DMR Group Australia Pty Ltd for any act or omission in connection with any arbitration conducted under these rules (other than in relation to a breach of their confidentiality obligations) shall be limited to $250,000 jointly.

Return of Documents after Arbitration

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

Internal Memo

Telecom AUSTRALIA

To MR DAVID KRASNOSTEIN
GENERAL COUNSEL

From STEVE BLACK
GROUP GENERAL MANAGER

Subject

Date 7 April 1994

File

Attention

COMMERCIAL AND CONSUMER
CUSTOMER AFFAIRS
6/242 EXHIBITION STREET
MELBOURNE
VICTORIA 3000
Australia
Telephone (03) 634 5736
Facsimile (03) 634 8441

Steve/Paul
Agreed.
David

David

Peter Bartlett tells me that Graeme Schorer is putting pressure on Gordon Hughes to read the Austel Report and see if it contains anything which would necessitate a change in the Arbitration Rules. I told Mr Bartlett to tell Dr Hughes that Telecom would seriously object to such a course of action.

Dr Hughes is now convinced that his proposal to have a joint meeting to finalise the rules tomorrow is useless. I have told Mr Bartlett that the only basis on which Telecom would attend a meeting is to formally sign the rules - no further discussion or negotiation to be entered into.

Dr Hughes seems to have dug a bit of a hole for himself.

Mr Bartlett is urging Dr Hughes to notify COTS that he has decided that the rules are now finalised and fair and reasonable and must be signed by COTS and Telecom tomorrow. Warwick Smith supports him in this. Dr Hughes has agreed to talk to Mr Schorer in an attempt to convince him to sign the rules tomorrow. I understand that Amanda Davis is ready to sign.

Paul Rumble
NATIONAL MANAGER
CUSTOMER RESPONSE UNIT

Maybe a letter to Robin Davey, T10 & Hughes would be appropriate? ie. Rules now agreed to by Telecom, we understand they satisfy final points of Hughes, T10 & Bartlett, we await sign.

A11908

A11908

325B

Commercial & Consumer

37th Floor
242 Exhibition Street
Melbourne Vic 3000

Telephone (03) 632 7778
Facsimile (03) 632 3241

9 April 1994

Mr Robin Davey
Austel
By Facsimile: 828 7394

Dear Mr Davey

Preliminary Draft Austel Report ("the Report")

I refer to my previous letter dated 8 April 1994 and our subsequent conversation, and .

In relation to the key issues of major concern to Telecom which I raised in that letter, I confirm the following:

1. In relation to point 5, you have accepted Telecom's requested amendment;

2. In relation to point 4, you have agreed to withdraw the reference in the Report to the potential existence of 120,000 COT-type customers and replace it with a reference to the potential existence of "some hundreds" of COT-type customers; and

3. In relation to point 2, you have agreed to withdraw the allegation that Mr Ian Campbell misled the Senate, and you will also alter the wording in respect of the reference in the Report to the statements made by Telecom to Mr Wright, to read that the statements had the "potential to mislead".

I also confirm your advice that you will include a recommendation in the Report that Austel will settle with the carriers a standard of service which they will offer, and that you will include a statement in the Report that Austel will move to determine limitations on carriers' liabilities under section 121 of the Telecommunications Act as a matter of urgency.

Key Issues Which Remain of Major Concern to Telecom

Telecom still holds the following concerns about the key issues which were raised in my previous letter.

1. In respect of the first key issue raised in my previous letter, you have refused to withdraw the disputed reference on the grounds that the words of paragraphs 8.38 and 8.39 of the Report only indicate that the Chairman of Telecom did not disclose the true nature and extent of COT case problems, and do not specifically state that the Chairman of Telecom misled the then Minister for Communications, Mr David Beddall.

   Telecom's concern is that this statement comes directly under a heading "**COT case allegations**" and a clear statement in the first line that Telecom misled the Parliament. Telecom is of the view that the juxtaposition of these paragraphs carries the clear inference that the Chairman of Telecom misled the then Minister for Communications, Mr David Beddall.

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R11828

Telecom is also concerned that the Report purports to be an independent review of the COT allegations by Austel, which holds itself out as being disassociated from the matters under review. However, the evidence led to support Mrs Garms' allegations that Telecom has misled the Parliament refers to documents evidencing a personal disagreement between the Chairman of Austel and Telecom as to the efficacy of a ministerial briefing note. Telecom disputes the Chairman of Austel's views on this matter and is of the view that unless the allegation is removed from the Report, the Report will still imply that the Chairman of Telecom misled the then Minister. This is unacceptable to Telecom.

Telecom is also concerned that AUSTEL does not appear to have consulted the previous Minister on his views on this matter. Telecom's view is that this allegation must be removed from the Report.

2. In respect of the second key issue raised in my previous letter, I note your advice that you propose to retain the altered reference to Mrs Garms' allegations in respect of Mr Keith Wright. Telecom still has the following concerns with your proposal. Telecom is concerned that it has not been given sufficient time to contact the officer who gave the briefing and obtain a statement of his understanding of Telecom's systems and to prepare a proper response in relation to this matter for inclusion in the Report. Telecom is of the view that if this allegation is to remain, then Telecom should be given adequate time to prepare a formal response for publication in the Report.

3. In respect of the third key issue raised in my previous letter, I note your advice that you propose to include the findings of the initial Australian Federal Police (AFP) investigation into Mrs Garm's allegations of corruption to make it clear that there was no evidence to support her allegations, and also to withdraw any specific reference to Telecom having misled the AFP. However, Telecom's concern is that this statement comes directly under the heading "COT case allegations" and is presented in the context of a section where allegations by Mrs Garms that Telecom misled the Australian Federal Police are presented. This clearly infers that Telecom misled the Australian Federal Police in the conduct of their investigation.

Telecom is concerned that this makes the Report misleading for two reasons. First, the statements relied upon by Mrs Garms to support her allegation, were not relevant to the subject matter of the investigation carried out by the Australian Federal Police. It would therefore not have affected the outcome of the Australian Federal Police investigation which related to the physical disconnection of her service.

Secondly, Mrs Garms' allegation that Telecom is corrupt and has misled the AFP, is untrue. The basis of her allegation is that Mr Bennett's purported statement to the AFP, that Telecom did not have access to check her old Commander telephone system, is not consistent with the file note dated 31 May 1990. Her allegation is that Mr Bennett's statement is untrue because Telecom had physical access to view her equipment, as evidenced by the file note.

Access to check equipment from a technical point of view refers to the ability to physically access equipment and the capacity to disassemble the equipment for testing and repair. The file note indicates that Mrs Garms had not taken out a maintenance contract for that equipment with Telecom and the equipment was privately installed and maintained. From a technical perspective Telecom did not have access to check the equipment, in that it did not have Mrs Garms' authority or the responsibility to disassemble the equipment for testing and repair. Therefore the two statements are consistent.

Mrs Garms has accused Telecom of corruption twice, and has also made allegations of corruption against the AFP. The first allegation of corruption against Telecom has been investigated by the AFP and found to be without foundation. The allegation of corruption against the AFP has also been investigated and found to be without foundation. The allegations which Austel now seeks to re-state in the Report in an authoritative way have also been referred to the AFP and it is Telecom's understanding that, after further consideration, the AFP does not consider that the matter needs to be reviewed further. Telecom considers that the proposed changes to the Report are insufficient and considers that the allegations repeated in the Report are unwarranted and must be withdrawn.

Telecom is also concerned that Mr MacMahon has been incorrectly informed that the AFP officer who conducted the original inquiry into Telecom, has been found guilty of corruption charges and is in prison. I have taken this matter up with the AFP who have advised me that this is totally unfounded. As Austel appear to have been seriously misinformed about the status of the AFP inquiries and AFP personnel, Telecom considers that any matters dealing with AFP investigations must be formally cleared with the AFP.

Telecom also considers that it should be given the opportunity to provide specific responses to any allegations of COT members re-stated in the Report, and that adequate time should be allowed for this purpose.

4. In respect of the fourth key issue raised in my previous letter, Telecom is still concerned that, in the absence of agreed service standards, the proposed reference to "some hundreds" of customers has the potential to be misleading.

At our meeting on 6 April 1994, Mr Ian Campbell indicated that Telecom accepted that the number of customers reporting DNF-type problems might be more than 50. However, in the absence of agreed service standards, it is not possible to define objectively how many customers are not receiving a satisfactory level of overall service.

The number of customers currently in serious dispute with Telecom on all service-related matters of which Telecom is aware, is substantially less than 100. Accordingly Telecom's view is that the only reference made in the Report to the number of potential COT customers, should be the original reference to "more than 50" customers.

Telecom considers that the Report's findings which purport to be derived from the information in the Bell Canada International (BCI) report, are misleading in that they focus on minor issues and ignore the primary findings of the BCI report in relation to those same issues, and are also in some cases factually incorrect. The Report is also unbalanced because the findings do not deal with the primary findings of the BCI report but only deal with peripheral issues favourable to the views of the COT customers.

In the concluding section of the section of the Report dealing with BCI, Austel makes no reference to the primary findings of BCI, but instead focuses on the following statement.

"The BCI report suggests the following weaknesses:

- potential problems attributable to older technology
- inadequacies in monitoring and testing equipment
- inadequacies of maintenance spares
- inadequacies of maintenance procedures
- potential problems attributable to number assignment procedures."

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The executive summary of the BCI report directly contradicts a number of these points. It states that "the testing and fault locating equipment and systems, as well as procedures to detect and correct network troubles were found to be comparable with world standards...". It also states that "the TEKELEC/CCS7 test system with enhancements by Telecom is the most powerful tool available in a digital network." In view of this, Telecom considers that the Report is factually incorrect. Telecom is also of the view that the statement that BCI found inadequacies of maintenance spares, is factually incorrect

If the following amendments are made, this section of the Report will be more be more balanced. The amendments include:

- relating Telecom's responses to COT issues and dealing with them together,
- correcting the errors of fact in Austel's findings in relation to technical matters,
- referring to the fact that supplementary testing addresses Austel's concerns regarding the original testing, and
- provide prominence to the primary findings of BCI in the relevant sub-section of the Report dealing with Austel's findings.

In addition, opportunity should be given for Bell Canada International to comment on this material before it is published.

It is also critical to point out that repetition of the unsubstantiated allegations of the four COT customer (unsubstantiated because AUSTEL recognises that an arbitrator will make these final determinations) without at the same time offering Telecom's response to those claims, is misleading and biased.

AUSTEL must either (1) not publish four COT customer's allegations at all, or (2) publish them alongside Telecom's responses, state that AUSTEL does not take one side or the other since the allegations will be determined by an arbitrator, point out how these disputes illustrate defects IN THE PROCESS of Telecom's process for resolving customers' complaints, and proceed to make recommendations on IMPROVING THE PROCESS. This will involve much new material being inserted in the Report to present our position on each quoted COT claim.

Finally, Telecom understands that you may amend the Report to reflect concerns raised with you by the COT customers. As these changes may raise further issues of concern to Telecom, Telecom is of the view that it should have an adequate opportunity to comment on any such changes.

Yours sincerely,

Steve Black
GROUP GENERAL MANAGER
CUSTOMER AFFAIRS

326A

R11831

Commercial - in - Confidence

Tom. 11/3
Dina for info & file pls

Size of the complaints problems

I raised the telephone business survey Rob Davey referred to in Hansard (Senate Estimates Committee 25/2/94) with John MacMahon (AUSTEL)

- it was apparently run by (T) at AUSTEL's request in an attempt to see how wide spread the problems are
- (T) provided the results to AUSTEL as 'commercial - in Confidence'
- They will be covered in AUSTEL's report.
- 10% of those surveyed said they had experienced the same sorts of problems (as the COT people)
- 4% (I'm not sure if this is of the total or of the 10% said they had been affected seriously or very seri

(~~John Dodge~~)

This is the basis for AUSTEL's view that the size of the problem is significantly greater than (T)'s claim of 50.

J J Martinsen
10/3/94

3268

TELECOM - IN - CONFIDENCE

[redacted]

The survey, through a series of detailed questions focussing on **incoming** calls to the business, found a **total** of 4% who felt that recent difficulties associated with incoming calls had affected their business adversely to a **significant** or **very significant** extent.

The results showed **no significant difference** between the **selected** exchanges and the **control** areas included in the survey.

This figure was derived from **two** questions asked of **all** respondents. The first related to difficulties experienced with incoming calls over the last month by the **business**. The second (asked of all respondents regardless of their response to the first question) related to comments received from **callers** regarding difficulties in getting through to the business in the last month.

A **total** of 8% of all businesses stated they had experienced problems **themselves**; 5% had, by inference from comments made by **callers**, assumed they had problems; and 8% claimed they had both experienced problems **themselves** and **also** received comments from **callers** regarding difficulties in getting through to the business.

However, the majority perceived these not to have had any or only a minimal effect on their business.

Problems experienced by **callers** to the business appeared to influence the **extent** to which incoming calls were considered to **seriously** effect the business.

Businesses who felt that problems with incoming calls had **significantly** or **very significantly** effected their business tended -

- to claim they had experienced **multiple** incoming call problems within the last month
- to have experienced incoming call problems at least **every few days**
- to have **heightened awareness** of potential problems that may exist with the telephone service in their area.

101115

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TELECOM - IN - CONFIDENCE

Compared to the **overall** business population the businesses claiming incoming call problems had **very/significantly** affected their business were found to have -

- more **lines** to their premises
- more **handsets** attached directly to lines (where there was no small business system)
- a higher incidence of **other equipment** attached to the lines

No differences were apparent between the **nature** of business of these customers and the general business population.

73% of customers who felt the problems associated with incoming calls had seriously affected their business had **reported** the problems to Telecom with varying degrees of success regarding resolution.

When invited at the end of the survey, **84%** agreed they would like Telecom to follow up their problems.

These customers will form the basis of the **second, diagnostic** stage which will be carried out by Telecom in order to determine the underlying cause of the problems believed to exist with incoming calls. During this stage Telecom will investigate both the **Telecom** network and the **customers** equipment; and their usage of the telephone service.

101116

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TELECOM - IN - CONFIDENCE

* Table 1 shows the response to the two questions asked of **all** respondents to elicit the incidence of **incoming** call problems over the **last month.**

Firstly survey respondents were asked if the business had experienced difficulties with incoming calls over the last month - 16% indicated they had. All respondents (even those who had **not** experienced any difficulties) were then asked whether they had received any comments from **callers** regarding difficulties in getting through to the business and a total of 13% stated they had.

This in fact represented a total of **21%** of **all** businesses in the survey who assumed - either from their own experience, or comments made by callers - that there had been problems with incoming calls to their business during the last month.

* **47%** of these respondents claimed incoming call problems had had an **adverse** affect on their business.

* **19%** of **all businesses with incoming call problems** felt these had adversely affected the business **significantly or very significantly (4% of all** business); **26%** perceived the affect as **slight.**

* The table opposite (Table 2) suggests it was comments from **callers** regarding ...

  - the number being constantly engaged (Q5a)
  - the number ringing but not being answered (Q6a)
  - a recorded message saying the number had been disconnected (Q7a)

... that had the **greatest influence** on perceptions relating to the effect on the business.

101117

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Internal Memo DWT TELECOM IN-CONFIDENCE

Telecom AUSTRALIA

To Mr H Parker
Group Managing Director
Commercial & Consumer

From E. J. BENJAMIN

Commercial & Consumer
Customer Affairs

Locked Bag 4960
Melbourne Vic 3000

Telephone (03) 634 2977
Facsimile (03) 632 3200

Subject Telecom-Austel COT Research

File

Date 6 December, 1993

Initial results of the joint Telecom-Austel market research survey managed by TELCATS Branch were discussed with Austel last Friday (3 December, 1993). Austel were given a draft copy of the results and after discussion some minor amendments are to be made this week. A copy of the report given to Austel is attached for your information.

Austel has said they would respect the confidentiality of the document and would check back with us if they intended to publicly release any information. However, this information may appear in their COT CASES Report whenever that is released. Therefore at some future stage we may have to deal with any public fall-out from the survey results. This matter is being addressed.

The survey found that 4% of the 2644 small business (ie. Commercial) customers surveyed perceive that they have experienced incoming call problems over the past month which they regard as Significantly or Very significantly affecting their business.

Of these 4% (105) of small business customers who perceive an adverse effect on their business, 84% (88) agreed to have follow up of their problems by Telecom and they will form the basis of a second, diagnostic stage of this study to determine the underlying cause(s) of the problems they believe to exist with incoming calls.

All survey respondents were asked if their business had experienced difficulties with incoming calls in the last month and 16% indicated that they had. All survey respondents (even those who had not experienced difficulties) were then asked a second question, if they had received comments from callers regarding experiencing difficulties in getting through to the business in the last month, and 13% of the respondents indicated that they had received comments. Combining the results of these two questions showed that 21% of all respondents had experienced some level of difficulties with incoming calls.

The results showed no significant difference in the selected exchanges and the control areas included in the survey. The nature of the business of those customers who perceive an adverse affect on their business and the general business population showed no apparent differences. However they did have more lines, more handsets directly connected if they did not have a small business system, and a higher incidence of other equipment attached to the lines.

Seventeen percent of customers said they had experienced some other problem (other than related to incoming calls) over the last few months. These will also be followed up by Telecom but not for the purpose of this study and do not form part of the discussions with Austel.

Ted Benjamin
GROUP MANAGER - CUSTOMER AFFAIRS

101201

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Hundreds punished for theft, snooping, rudeness

Bad bureaucrats

326 E

HUNDREDS of federal public servants were sacked, demoted or fined in the past year for serious misconduct.

Investigations into more than 1000 bureaucrats uncovered bad behaviour such as theft, identity fraud, prying into private files, leaking secrets and being rude to clients.

The most common breach was improper use of taxpayer-funded internet and email.

Fiona Hudson

But investigators uncovered a wide array of offences, including two officials on overseas duty sanctioned for not behaving in a way that would uphold the good reputation of Australia.

Almost 80 public servants were sacked in 2007-08 for breaching their code of conduct, while 162 resigned while under investigation.

Fines were handed to 218 public servants, 111 were counselled, 93 took a pay cut, and 26 were shifted sideways.

About 50 were found to have made improper use of inside information or their power and authority for the benefit of themselves, family or friends.

Some of the offences were committed at social functions outside working hours.

Theft allegations were levelled against 16 officials, while 25 were accused of leaking information.

Details of the investigations and sanctions are contained in the latest *State of the Service* report by the Australian Public Service Commission.

"The public has much higher expectations than ever before about what the Government and the public service can deliver," the report said.

"The Australian Public Service must adapt and reform to keep in step with these developments."

The Department of Agriculture, Fisheries and Forestry and the Department of Immigration reported the most investigations per 1000 staff.

Centrelink and the Department of Defence were among those to take the hardest line on breaches.

About 40 of the sanctioned staff sought reviews by the Merit Protection Commissioner, with many still to be heard or decided.

The report also noted a significant increase in the number of public servants who reported feeling harassed or bullied at work.

Two unnamed agencies were blamed for the surge in bullying reports, from 15 to 19 per cent of all Australian Public Service staff.

A much higher percentage of women than men believed they had suffered at the hands of others, with superiors largely blamed.

"It is of great concern that some agencies appear to have a culture in which managers who bully may be tolerated," the report said.

Grocery watch returns

Steve Lewis
national political correspondent

SHOPPERS will be able to compare prices at up to 4000 supermarkets under plans to revive the Rudd Government's troubled grocery watch scheme.

In a big win for consumers, the price of everyday grocery items such as cereals, bread and fruit will be individually priced.

Weekly specials will also be posted under plans to build pricing pressure in the $50 billion grocery sector.

Consumer organisation

6. CONCLUSION

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

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

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

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

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

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

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

GOLDEN
Messenger

493-495 Queensberry Street North Melbourne Victoria 3051
Postal Address PO Box 313 North Melbourne Victoria 3051
Telephone (03) 9287 7099 Facsimile (03) 9286 0066
Website www.goldenmessenger.com.au

30 July 2009

copy

Mr Crowley
Chief Executive Officer
Institute of Arbitrators and Mediators Australia
C/- The (IAMA) Ethics and Professional Affairs Committee
P O Box 134 Law Courts
MELBOURNE VIC 8010

Dear Sir

I am aware that the (IAMA) Ethics and Professional Affairs Committee are investigating Alan Smith's arbitration matters.

During my role as the CoT's (Casualties of Telstra) spokesperson, I was constantly briefed by the CoT participants during their respective TIO administered Fast Track arbitration procedures.

I clearly recall having many discussions with Alan Smith over his facsimiles that went missing/lost during his arbitration.

A copy of the letter dated 4 August 1998 that I sent to Alan Smith is enclosed.

Also enclosed is my statutory declaration addressing these matters in order to assist the IIAMA in their current investigation into the Smith arbitration matters.

Yours sincerely

Graham Schorer

328

C.o.T. Cases Australia

493-495 Queensberry Street
P.O. Box 313
North Melbourne VIC 3051

Telephone: (03) 9287 7095
Facsimile: (03) 9287 7001

4 August, 1998

Our Ref: 3915.doc

FAXED 4/8/98

Alan Smith
Cape Bridgewater Holiday Camp
RMB 4408
Blowholes Road
Portland VIC 3305.

By facsimile: (0355) 267 230.
Total pages (including this page): 2.

Dear Alan,

Re: **Facsimiles transmitted to Hunt & Hunt, Melbourne Office, addressed to Dr Hughes, the appointed Arbitrator of the Telstra-TIO arbitrations.**

Further to my telephone conversation with you on Saturday, 1 August 1998, I am confirming in writing what I was told by Dr Hughes in the early part of 1994, in response to an alleged missing facsimile.

During the period between late January and mid-April 1994, I had reason to have direct discussion with Dr Hughes on the contents of correspondence sent to him re the proposed Telstra-TIO arbitration.

On one occasion during this period, I rang Dr Hughes before 9:00AM on his direct telephone number to discuss contents of facsimile I had just sent to him. The facsimile had not been received at Hunt & Hunt, Melbourne's Office.

Dr Hughes, after making inquiries, informed me, expressed in words to the effect, the following:-

- Hunt & Hunt Australian Head Office was located in Sydney.
- Hunt & Hunt Australia is a member of an international association of law firms.
- Due to overseas time zone differences, at close of business, Hunt & Hunt Melbourne's incoming facsimiles are night switched to automatically divert to Hunt & Hunt Sydney office, where someone is always on duty.
- There are occasions on the opening of the Melbourne office, the person responsible for canceling the night switching of incoming faxes from the Melbourne Office to the Sydney Office, has failed to cancel the automatic diversion of incoming facsimiles.
- The diversion of incoming faxes to Hunt & Hunt Melbourne to Sydney Head Office has also been taking place when the Melbourne fax machine has been out of paper or when all of the incoming fax lines are busy.

- It is the duty of Hunt & Hunt Sydney Office to redistribute received facsimiles to theintended State Offices it had received after hours and before commencement of the next day of business.

- The onforwarding of after hours facsimiles transmitted to State Offices received at the Sydney Office is not taking place.

- Thank you for drawing this matter to my attention, as the Management of incoming facsimiles to Hunt & Hunt Melbourne are not satisfactory.

- New procedures will be introduced to rectify this deficiency.

I have read all of your correspondence regarding missing facsimiles, interception of facsimiles and telephone calls. I have examined all of the documents attached to your correspondence, which in my opinion, support many of your assertions.

Alan, what you have managed to piece together by examining your telephone account, in conjunction with other people's telephone accounts, together with Telstra documents received under FOI and/or arbitration, is alarming. I believe you have produced a picture that demonstrates your telephone service has been illegally interfered with, before, during and after your arbitration.

I note you have allowed your findings to remain open when there is insufficient independent evidence to support what appears to be apparent.

I believe the incident that I experienced and explanation I received from Dr Hughes could be a reason and explanation why Dr Hughes did not receive all facsimiles sent to him.

What I experienced does not identify all of the reasons Telstra received 43 submissions less than what you sent to Dr Hughes.

In closing, I draw your attention to the testing performed by Telstra on yours and my facsimile machines in late 1993, as a result of our complaints about my office receiving blank pieces of paper, with the funny symbol on the top when you were faxing documents to me. As you will remember, Telstra, on completion of the tests, asserted there was nothing wrong with the telephone lines nor our facsimile machines.

Should you require further information, please do not hesitate to make contact.

Yours sincerely,

Graham Schorer

3915

OATHS ACT 2001

STATUTORY DECLARATION

I, Graham Schorer of 493 Queensberry Street, North Melbourne,

do solemnly and sincerely declare on oath that my letter dated 4 August 1998 to Alan Smith of Cape Bridgewater Holiday Camp, Portland, Victoria 3305 and my correspondence dated 30 July 2009 to Mr Crowley, Chief Executive Officer, Institute of Arbitrators and Mediators of Australia are both a factual account of events that have taken place.

I make this solemn declaration under the *Oaths Act 2001.*

Declared at ......North Melbourne...
(place)

on ....30 July 2009..
(date)

....
Signature

Before me,

....
(Justice, Commissioner for declarations or authorised person)

GARY BOHMER PHARMACY
Approval No. [illegible]
29 JUL 2009
NORTH MELBOURNE 3051
Ph: 9328 1960 Ph/Fax: 9328 1531

GARY BOHMER
Pharmacist 8132

Holmes, Jim

From:	Bruce, Kevin
To:	Row, Ian
Cc:	Holmes, Jim
Subject:	Fibre Degradation
Date:	Thursday, 16 September, 1993 3:41PM
Priority:	High

You will recall a week or so ago I briefly mentioned that Network Products had experienced difficulties with parts of the optical fibre network and that Gerry Moriarty & Harvey Sabine (GM - Transmission) had asked that I and suitable external litigation experts consider Telecom's legal position.

My initial preference for external legal support was Russell Berry & Wayne Condon. Because one of the possible defendant's (Olex Cables) is a division of Pacific Dunlop Ltd, Freehill Hollingdale & Page had a conflict of interest. Due to the firm's commercial litigation expertise and the knowledge it has acquired of Telecom's supply processes through the Switch Vendor Study, my other preference was Molomby & Molomby. Lindsay Collins & Nick Nichola were available, Molomby's had no conflict of interest, so I have briefed Molomby & Molomby.

Problems were experienced in the MacKay to Rockhampton leg of the optical fibre network in December '93. Similar problems were found in the Katherine to Tenant Creek part of the network in April this year. The probable cause of the problem was only identified in late July, early August. In Telecom's opinion the problem is due to an aculeate coating (CPC3) used on optical fibre supplied by Corning Inc (US). Optical fibre cable is supposed to have a 40 year working life. If the MacKay & Katherine experience are repeated elsewhere in the network, in the northern part of Australia, the network is likely to develop attenuation problems within 2 or 3 years of installation. The network will have major QOS problems whilst the CPC3 delaminates from the optic fibre. There are no firm estimates on how long this may take.

Telecom's sources its optical fibre cable from 3 suppliers, Pirelli Cables Aust Ltd, Olex Cables and MM Cables. These 3 suppliers obtain their optical fibre from Optical Waveguides Australia (OWA) [using Corning technology] and Optix [using Sumitomo technology]. To date Telecom has not experienced any problems with cable that uses Sumitomo technology. From October the cable suppliers will only provide Sumitomo sourced cable. Existing stocks of Corning cable will be used in low risk / low volume areas.

Legal involvement at this stage is part of NWP's risk management exercise. It is clearly understood that any decision to pursue legal options will require senior management endorsement.

Kevin Bruce

Commonwealth of Australia
STATUTORY DECLARATION
Statutory Declarations Act 1959

I, ~~Darren Lewis~~ & DARREW William Lewis
OF 1721 Blowhole rd Cape Bridgewatervic
Make the following declaration under the Statutory Declarations Act 1959

The following chronology can be supported by documentation which I have on file.

PHONE & FAX PROBLEMS

1. I purchased the Cape Bridgewater Holiday Camp (now Cape Bridgewater Coastal Camp) December 2001.
2. Within a week or so of taking over the business from Alan Smith, friends and new clients were stating they could not get through to us on successfully on the phone.
3. By mid 2002, my wife Jenny and I realised we were having major problems with in-coming calls and our out-going faxes were a major problem.
4. From discussions with the previous owners Jenny and I now fully understood that we had inherited some of the phone and fax faults Mr Smith had been reporting for some time.
5. Letters from us to our local Federal Member of Parliament, the Hon David Hawker, Speaker in the House of Representatives, led to Telstra visiting our business to investigate these continuing problems.
6. In November 2002, after Telstra realised there was in fact a Telstra related problem and not (customer related equipment) they informed us that the new wiring they were installing was worth thousands of dollars but not to worry as Telstra would pick-up the cost.
7. After Telstra rewired the business including disconnecting a Telstra installed faulty phone alarm bell, we were informed Telstra had found other problems and believed who ever had installed the wiring had done an unprofessional job.
8. Internal Telstra documentation provided to me by Allan Smith confirmed Telstra themselves had done the wiring.
9. Jenny and I noticed that although our incoming-call rate had more than doubled once this rewiring had taken place Telstra was still unable to provide a satisfactory reason as to why we were still having problems.
10. Telstra connected fault finding equipment called Customer Access Call Analysis (CCAS) to 55-267267 business line.
11. This CCAS data recorded numerous faults that could not be explained by the (Level Three) Telstra fault managers. Hand written notations on some of these CCAS data sheets, confirm even the Telstra technicians themselves were aware of the ongoing problems.
12. By 2004, with the problems not resolved I again sought help through the Hon David hawker.
13. Correspondence from Mr Hawker in August 2004, confirms Telstra had advised him that the local un-manned exchange was soon to be upgraded.
14. From 2004 until most recently still no upgrades.
15. In August this year we contacted Mr Hawker's office regarding the ongoing problems and advised his staff we have no real alternative but to sell the business.
16. Because we were with AAPT and it appeared they had no control over the faults being experienced we changed back to Telstra.

D Lewis

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17. From Tuesday to Thursday evening (August 2006), Telstra technicians were present at the Holiday Camp and surrounding area attempting to locate and fix the problems they had experienced themselves.

18. During this three day period even Telstra's own technicians couldn't understand why their own fault testing equipment was malfunctioning.

19. Telstra informed us we had what is commonly known in technical words as (a line in line lock-up rendering our business phone useless until the fault is fixed.

The technicians then in hook up consultation with outside office guru's did a fault graph reading on our 55 267267 line with the outcome that their office technical staff stated words to the affect the reading was impossible (couldn't be correct). It was then that the local technician became quite annoyed when the technical guru insinuated that the equipment the local tech was using must be faulty. The local tech then informed the technical guru that there was nothing wrong with the equipment at all.

It was then that the local technician informed me that as strange as it might seem he believed that because our business was on optical fibre and was so close to the Beach Kiosk (junction box) this could very well be part of the problem. Apparently either under powering over powering was also an issue He realised that after testing all the other optical fibre outlets with his testing equipment and still reached this impossible reading (according to the technical guru), he would have to move us off the fibre.

it was on this note that the technician informed me that although it was a back ward step he was going to investigate the possibility of moving the business off the optical fibre and back on to the 'old copper wiring'.

After investigating this possibility our business was then moved back onto the 'old copper wiring'. The above is more evidence of the continuation of the phone and fax problems my wife and I inherited when we purchased our business.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false declaration for wilful and corrupt perjury.

DECLARED at [illegible] in the

State of Victoria this

day of [illegible] two thousand) D. Lewis

and [illegible]

Before me [illegible]

[illegible]

COR/

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Seal Cove Guest House
Cape Bridgewater
Portland RMB 4409, 3305
Phone: 03 55 267 170
Fax: 03 55 267 265

11th September 2004

Dear Darren,

I have recently heard that you are now blaming your current financial problems on the poor condition of the Holiday Camp when you purchased it, including the lack of improvements I had been directed to carry out by the local health authorities. I find these allegations most disturbing and would like to remind you of a number of points you may have forgotten.

ACCREDITATION 2000/2001
Before the Camp was put on the market, I complied with all the requirements of the Camping Association of Victoria (CAV) and so achieved their accreditation. Because the CAV has such high standards, the Victorian Government Tourism Association considers them to offer a benchmark standard for other tourism bodies to work towards.

In order to become accredited (either with the CAV or any other tourism body) a business is required to have the following written permits in place:

1. Permit of appliance and recognised standards from the Local Council Health Department:
   The only changes the Council required after their inspection were the installation of a hands-free washbasin in the main kitchen, and installation of ducting and a canopy over the chip fryer. The hands-free basin was the only outstanding item not in place when you purchased the business.
2. Building surveyor's guarantee of appliance and safety standards.
3. Local Fire Authority approval, stating that all the required standards have been met.
4. Plumbing certificates of appliance, including dates of when new septic tanks were installed.
5. Recognised standard appliance document from a certified electrical contractor.
6. Insurance documentation, including notification of any possibly dangerous locations on the property:
   Gas bottles on the property were the only dangerous areas identified during our insurance inspection and these were accordingly enclosed in cages before the business was put on the market.

During the CAV accreditation process Cathy and I visited a number of similar Holiday Camps around Victoria and attended seminars on the subject to ensure that we were fully aware of all the official requirements of us, as Camp operators. The accreditation team, who had assessed some one hundred and sixty eight other similar businesses before ours, and who were also aware of the telephone problems we had been forced to deal with, were most impressed with our Camp, noting that they had never before found a similar facility able to boast that five separate schools had returned annually over a thirteen year period, and two others had returned annually for eight years. As far as I know, these schools are still returning to your business.

FINANCIAL AGREEMENT
As you knew before you bought the business, the gross income from the Camp during the last full financial year before I sold (2000/2001) was approximately $150,000, even without the improvements you have made over the last two years, including new paths and barbeque, new kitchen equipment, new flooring in the church building, new plumbing in the toilets and refacing the main hall.

Before you began these changes I allowed you a two-month cooling-off period, from December 2001 to February 2002, but you chose to go ahead with the purchase, even though you could have taken the profit earned over this time had you decided not to go ahead. Since your first payment, you have not paid even one six-monthly payment on time, as the attached lists shows, and you have not reimbursed me at all for the cost of power to pump water to your business, even though I am sure Coastal Real Estate will confirm that you originally agreed to either install a meter or pay an agreed electricity cost for the pumping process.

TELSTRA PROBLEMS

Many legal people and Senators plus the Australian Federal Police, David Hawker and the Board of Telstra all now know that Telstra relied on false documentation and false test results to support their defence of my arbitration claims. Because I believed these documents and therefore accepted Telstra's insistence that all the phone problems had been fixed, I accepted compensation from Telstra and, when I found the problems were not fixed at all, and continued to pressure Telstra to repair the damage, I believed Telstra then resorted to delaying tactics in retribution. This belief was a major factor in my decision to sell the business, because I believed Telstra would then have no reason to continue ignoring the phone problems. I truly believed that, once you took over, Telstra would immediately respond to your complaints and fix the phone problems for you. As we all now know, the phone problems were genuine and had not been 'manufactured' by Telstra to punish me.

VALUATION

Because the phone problems continued after you took over, Cathy and I have given you and Jenny every conceivable allowance so you would have a proper chance to build the business once the phones had been brought up to reasonable standard. Although the Camp was valued at $800,000 to $830,000 only three months before you purchased it, I sold it to you for $650,000 and since it has now been valued at $1.2 million it was clearly a business with a sound basis when you purchased it.

At this point however I must also add that I totally understand the psychological stresses associated with the phone problems you have had to deal with, having suffered under the same conditions myself for years. I know from my experience how badly the stress affected my judgement (and I expect it had a similar effect on you too), I tried to hide the effects of that stress from everyone around me and how difficult it was to make decisions.

I also understand the thrill of taking over a new business (having done the same thing myself in 1988) and how difficult it can be to keep control of finances at the start. Please do remember, however, that there are others who have been through what you have been through, and some of us have offered you as much assistance as we can.

After we have finished the new financial arrangements now being worked out with the help of Howman Blaker Harris Legal and this process is in place there will be no allowance for any late payments as has been afforded you in the past. I am sure most will agree that Cathy and I have been more than reasonable over the past 30 months in allowing you to catch up on meeting your financial commitments.

Best regards,

Alan Smith

Copies to
Steven Blaker, Howman Blaker Harris Legal, 23 Percy Street Portland 3305

3rd May, 1994.

RE: COT CASES

On today's date I spoke to Mr. Goldberg who after lengthy discussion with me indicated his inability to take on the main task.

He suggested Dr. Clifford L. Pannan.

On a date to be determined (last week or the week before) spending from 9.30 to 3.30 at the pre-conference with Dr. Gordon Hughes and Bartlett of Minter Ellison etc. etc.

Later attending Mrs. Ghams, loss assessor at night. perusing all the documentation on the previous day.

Various telephone attendances on Mr. Schorer on the previous day.

Hunt & Hunt
LAWYERS

12 April 1994

Our Ref: GIII
Matter No:
Your Ref:

BY FACSIMILE: 617 4666

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

Dear Peter

COT MATTERS

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

They made the following points:

(a) in relation to clause 8.1, services will in fact be provided by Ferrier Hodgson Corporate Advisory (Vic) Pty Ltd, not Ferrier Hodgson Chartered Accountants. Either the name should be substituted or the words "(incorporating Ferrier Hodgson Corporate Advisory (Vic) Pty Ltd)" should be inserted in the third line after the words "Chartered Accountants";

(b) also in relation to clause 8.1, technical input will be provided by DMR Inc, not DMR Group Australia Pty Ltd. DMR wishes this substitution to be made;

(c) the above changes should be reiterated in clauses 25 and 26 as presently drafted;

(d) further in relation to clauses 25 and 26, both Ferrier Hodgson Corporate Advisory and DMR Inc are concerned about their potential liability. As the clauses presently read, they would be liable to a maximum of $250,000.00 per claim. This is likely to significantly exceed their professional fees in relation to each claim. Ferrier Hodgson's preference (and also the preference of DMR)

melbourne
sydney
sydney west
brisbane
canberra
newcastle
adelaide
perth

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would be for a total exclusion of liability but, failing that, they would accept a lower cap more commensurate with their anticipated fees;

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

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

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

Yours sincerely

GORDON [illegible]

cc W Smith
J Selak, J Rundell

1122469_GLH/ES

333A

A59257

MINTER ELLISON MORRIS FLETCHER

BARRISTERS AND SOLICITORS

40 MARKET STREET
MELBOURNE VICTORIA
TELEPHONE (03) 617 4617
FACSIMILE (03) 617 4666
DX 204 MELBOURNE
Postal address
GPO BOX 769C
MELBOURNE VIC 3001
AUSTRALIA

FACSIMILE TRANSMISSION

DATE 13 April 1994

TO Ann Germs
Facsimile number (07) 892 3739

FROM Peter Bartlett
MINTER ELLISON MORRIS FLETCHER MELBOURNE
Our reference PLB 928549

SUBJECT Cot Claims

NOTE
If you do not receive page(s) including this one, please telephone MINTER ELLISON MORRIS FLETCHER (03) 617 4623 as soon as possible.

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

w/plb410307

333B

13/04/94 14:54 MINTER ELLISON MORRIS FLETCHER 001

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

by being delivered by hand or sent by prepaid mail.

Liability of Administrator and Arbitrator

24. Neither the Administrator nor the Arbitrator shall be liable to any party for any act or omission in connection with any arbitration conducted under these Rules save that the Arbitrator (but not the Administrator) shall be liable for any conscious or deliberate wrongdoing on the Arbitrator's own part.

25. The liability of Ferrier Hodgson and the partners and employees of Ferrier Hodgson for any act or omission in connection with any arbitration conducted under these rules (other than in relation to a breach of their confidentiality obligations) shall be limited to $250,000 jointly.

26. The liability of DNR Group Australia Pty Ltd and the directors and employees of DNR Group Australia Pty Ltd for any act or omission in connection with any arbitration conducted under these rules (other than in relation to a breach of their confidentiality obligations) shall be limited to $250,000 jointly.

Return of Documents after Arbitration

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

d/fjs405681

MINTER ELLISON MORRIS FLETCHER

BARRISTERS & SOLICITORS

40 MARKET STREET
MELBOURNE VICTORIA

TELEPHONE (03) 617 4617
INTERNATIONAL +61 3 617 4617

FACSIMILE (03) 617 4666

DX 204 MELBOURNE

POSTAL ADDRESS
GPO BOX 769G
MELBOURNE VIC 3001
AUSTRALIA

OUR REFERENCE
PLB 928549

YOUR REFERENCE

DIRECT LINE
(03) 617 4623

CONFIRMATION OF FACSIMILE

24 November 1994

Graham Schorer
23 Kensington Road
SOUTH YARRA VIC 3141

By Facsimile 287 7001

Dear Graham

Fast Track Settlement Procedure

You have suggested that it is your understanding that Telecom will pay the costs of preparation and submission of your claim. My recollections and my file do not accord with your recollections.

1. The Fast Track Settlement Proposal does not provide for the recovery of the costs of preparing the claim. It does provide (clause 2(k)) for Telecom paying the assessors costs however.

2. The Fast Track Arbitration Procedure does not provide for recovery of such costs.

3. On 28 March 1994 Ann Garms advised me that she was not happy that she would need to bear her own costs of the submission.

4. On 28 March Amanda Davis said that she would like solicitor/ client costs.

5. I understand that Steve Black and Warwick Smith discussed and agreed on 29 March 1994, that the claimants would fund the preparation of their claims, and Telecom would fund the administrative costs, including that of the Arbitrator, the Resource Unit and the TIO's costs.

6. On 29 March Warwick Smith sent me a letter which included the following:

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'As to costs, the arrangement is that the administrative costs of the procedure such as TIO, Legal Counsel, Assessor and Resource Unit are covered by Telecom. Some initial conference costs at my request were also covered. Per the agreement and the procedure costs for COT claimants of their submissions are their responsibility.'

7. Bernard Ponting & Co, in their letter to Mrs Garms of 28 March 1994, noted that the costs of preparation would fall on Mrs Garms (paragraph 1). He added that if there was a need for Mrs Garms to travel to Melbourne, she would also need to bear the cost of that travel.

In this regard he referred to clause 22 of the draft Procedure.

8. I discussed this on 29 March 1994 in the context of it being possible to ask the Arbitrator to have any oral hearings in Brisbane, to reduce the costs to the claimants. There was no discussion that such costs would be recoverable from Telecom.

9. Mr Ponting's letter of 31 March (paragraph 9) expressed a wish that Telecom should bear the claimant's costs throughout, rather than each party bearing its own costs, as he acknowledged was provided in clause 22 of the Fast Track Arbitration Procedure. However, no subsequent amendment was made to clause 22.

10. Amanda Davis executed the Procedure with no amendment to clause 22.

11. In the discussions leading up to the signing by the other COT, clause 22 was not amended.

12. Graham Schorer told me on 13 April that he believed that 'losses' include the time etc in preparing the case and organising the media campaign. He felt that such costs should be part of the award. He said that Robin Davey agreed with this.

I noted that the draft Procedure did not recognise that such costs form part of the claim.

13. Graham repeated these comments on 15 April.

14. Warwick Smith told me on 15 April that he had spoken with Robin Davey and Robin Davey felt that clause 22 on costs accurately reflected the agreement. Davey said that the costs of preparation did not form part of the loss.

15. I also spoke directly to Robin Davey on 15 April and he said that the Proposal did not envisage Telecom paying the costs of the preparation.

16. All issues were discussed at a meeting on 20 April, at which Robin Davey was also present.

17. Clause 22 of the Procedure, signed by Messrs Garms, Smith and Schorer on 21 April 1994, provides that each party, shall bear their own costs of the arbitration.

If you have any queries please let me know.

Yours sincerely

Peter Bartlett

TP sight Arch

Hunt & Hunt
LAWYERS

COPY

14 MAR 1996

Partners
David M. Scarlett
Edward S Boyce
James G.F. Harrowell
Gordon L. Hughes
Mark T. Knapman
David P. Cooper
Ian S. Craig
Peter J. Ewin
Peter D. Francis
Jenni M. Lightowlers
Wayne B. Cahill
Neville G.H. Debney
Grant D. Sefton
Charles Veevers
William P. O'Shea
David G. Watts

Consultants
Kenneth M. Martin
Richard J. Kellaway
Andrew Jenkins

Associates
Shane G. Hird
John S. Molnar
Melissa A. Henderson
Francis V. Gallichio
John D.F. Morris
Michael S. Carrick

Incorporating:
Francis Abourizk Lightowlers

8 March 1996

Our Ref: GLH
Matter No: 5126878

Mr E Benjamin
Group Manager
Customer Affairs
Telstra Corporation
Level 37, 242 Exhibition Street
MELBOURNE Vic 3000

Dear Mr Benjamin

ARBITRATION - GILLAN

I refer to my letter of 20 February 1996. Documentation was to be made available to the claimants on or before 6 March 1996. If this has not occurred, could you please advise me when the delivery of that documentation is expected to take place?

Yours sincerely

GORDON HUGHES

cc A Davis, M Gillan, R Huch, J Pinnock, P Bartlett, S Hodgkinson

melbourne
sydney
sydney west
brisbane
canberra
newcastle
represented in
adelaide
darwin

2/4.

28 Rowe Street
N Fitzroy Vic 3068

27 March 1996

Dr Gordon Hughes
Hunt & Hunt
Lawyers
Level 21
459 Collins Street
Melbourne Vic 3001

BY FACSIMILE: 614 8730

Dear Dr Hughes

JAPANESE SPARE PARTS - ARBITRATION - TELECOM AUSTRALIA

The documents recently provided by Telstra contain new and relevant information which clearly has an impact on the Claimants' position.

That information includes, from Telstra's own records, that Loop Mux problems were recognised as early as 1986 and persisted through at least 1992, and were not confined to the period October 1989 – late 1990 as accepted by the Resource Unit.

Further, there is evidence that the report on the PCM Multiplexor faults was written to a pre-determined outcome.

There are also documents which provide information contrary to that contained in the Statutory Declarations provided by Telstra as part of their defence.

The documents give rise to certain questions which, we believe, ought to be put to Telstra on the matter of records referred to in the documentation recently provided.

In view of this, I request the following:

1. That a period of three weeks from today be allowed for the preparation of a further submission. (This period includes Easter).

2. That arrangements be made for the Resource unit to look at these documents. I would be happy to give them the appropriate document references.

Yours sincerely

Amanda Davis
for M. Gillan

cc T Benjamin J Pinnock

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FAXED 26/6/96

Telstra

Regulatory & External Affairs

Level 37
242 Exhibition Street
Melbourne Vic. 3000

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

25 June, 1996

Mrs Maureen Gillan
19 Carnarvon Court
EVERTON HILLS QLD 4053

By facsimile: (07) 3353 3593

Mr Ron & Mrs Joyce Huch
3 Mayflower Street
WARNER QLD 4500

By Post

Dear Mrs Gillan

Arbitration

I refer to your letter to the Telecommunications Industry Ombudsman of 24 June 1996, a copy of which was forwarded to Telstra by the TIO today.

Telstra advises that pursuant to your instructions the award monies in the sum of $225,000.00 were paid to Valkobi Pty Ltd this afternoon by telegraphic transfer, as follows:-

- Commonwealth Bank, Everton Park, QLD.
- Branch No. 4110
- Account No. 0020 4766

A Copy of the Commonwealth Bank deposit receipt is enclosed for your record.

Yours faithfully

Ted Benjamin
Director
Consumer Affairs

Encl:

cc: Ms Amanda Davis
By facsimile: (03) 9489 4452

Mr John Pinnock
Telecommunications Industry Ombudsman
By facsimile: (03) 9277 8797

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TB-MG013.DOC

Commonwealth Bank
Commonwealth Bank of Australia
ACN 123 123 124

Do not complete deposit receipt if passbook is being presented

Date 25/6/96

Account Identification Number
411 9 - 0020 4766

Account Name
VALKORI P/L

$ 225000 —

Teller

Deposit Receipt

Proceeds of cheques not available until cleared
Please retain for statement verification

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Ann Garms OAM
The Tivoli Theatre
48-52 Costin Street
Fortitude Valley
BRISBANE
Qld 4006

Ph: [07] 32571288
Fax: [07] 32571583

27 June 1996

The Hon Daryl Williams AM, QC, MP
Attorney General and Minister for Justice
Parliament House
CANBERRA ACT

Dear Minister,

Re: Defective Administration and unlawful corporate conduct by TELSTRA Corporation. - "*TELSTRA senior technical officers have made statements under oath which are known to them to be untrue*"

I wish to submit a formal complaint concerning Defective Administration and unlawful conduct by TELSTRA Corporation. I am in Arbitration with TELSTRA. The Arbitration is known as the "*Fast Track Arbitration Procedure.*"

The Arbitration was negotiated by AUSTEL on behalf of four small business customers of whom I am one. We are commonly referred to as the CoT Cases "*Casualties of* TELSTRA."

The Rules of the FTAP "*Arbitration Proceedings*" stipulate that "*the arbitration will be on documents and written submissions only*" In TELSTRA's Defence TELSTRA Corporation submitted as "evidence" Statutory Declarations by TELSTRA personnel. In these Statutory Declarations TELSTRA senior technical officers have made statements under oath which are known to them to be untrue.

I am informed that it is a crime under the *Crimes Act of 1914* to provide false testimony under oath. The unlawful conduct adopted by TELSTRA Corporation has severely disadvantaged us in the arbitration process.

TELSTRA is reliant upon the Statutory Declarations as evidence because TELSTRA states that the majority of historic documents which they base their Defence on have either disappeared or have been destroyed. It is therefore absolutely crucial to the process of Natural Justice that TELSTRA's Statutory Declarations be incontestable.

Subsequent to my complaint concerning the validity of TELSTRA's Defence to the Arbitrator, Mr Ted Benjamin - National Manager Customer Response Unit TELSTRA wrote on the 9 June, 1995:

"The BOO1 Report is itself not evidence (hearsay or otherwise). The question of admissibility of the Report would therefore not seem to arise".....

"Telecom has provided the evidence upon which the BOO1 Report was based separately in the various appendices and Statutory Declarations."

I am in possession of documents which validate my assertions that the testimony sworn was known to the declarant to be untrue. Accompanying this complaint I enclose the Statutory Declarations of GEORGE SZYLKARSKI, LESLIE CHAMBERLAIN - 1989-1991 Area Manager (North) for Telecom Business Services ("TBS"). 1991- Telecom Manager, Network Operations, and PAUL HOWARD MIDDLEDITCH together with copies of the documentary evidence which disproves the sworn declarations. I will forward the Attachments with the bound copy of this complaint.

I will provide you with additional submissions next week on other statements submitted by TELSTRA Officers under oath and which were known to the declarants to be untrue.

There is now conclusive documentary evidence that TELSTRA misled *AUSTEL, Bell Canada International* and *Coopers and Lybrand* during their Inquiries. The subsequent "Reports" published by the above are in the most important areas incorrect and therefore defamatory and have caused damage to our credibility. I will today be lodging a formal complaint with AUSTEL in this regard.

The Commonwealth Ombudsman Ms Phillipa Smith has just completed an inquiry into my complaint concerning the conduct of TELSTRA in the provision of documents under FOI including the withholding and alleged destruction of documents by TELSTRA. *"TELSTRA & FOI - Report of an investigation into a complaint by Mrs Ann Garms May 1996 - Report under section 35A of the Ombudsman Act 1976."*

I will forward a copy of the Commonwealth Ombudsmans Report with the original of this complaint.

I would appreciate your advice as a matter of urgency as to what action you will be taking in this matter. Your officer asked me if I had lodged a complaint with the Australian Federal Police? Could you please advise me whether I or your office should lodge the complaint.

I would appreciate an acknowledgment of receipt of this complaint.

Yours sincerely

Ann Garms

CC	Mr Neil Tuckwell Chairman	AUSTEL
	Senator Ronald Boswell	National Party leader in the Senate
	Senator the Hon Richard Alston	Minister for Communications and the Arts
	The Hon Warwick Smith	Minister for Sport, Territories and Local Government
	The Hon Peter Costello MP	Treasurer
	The Hon Peter Reith MP	Minister for Industrial Relations
	Senator the Hon Robert Hill	Minister for the Environment
	Senator Vicki Bourne	Australian Democrats
	Ms Phillipa Smith	Commonwealth Ombudsman
	Dr Gordon Hughes	Hunt and Hunt Lawyers
	Mr John Pinnock	Telecommunications Industry Ombudsman
	Mr Peter Bartlett	Minter Ellison - legal adviser to the TIO

FAXED 28-6-96

Ann Garms

10/1/94

Telecom
AUSTRALIA

Commercial
37th Floor
242 Exhibition Street
Melbourne Vic 3000

Australia

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

10 January, 1994

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

Dear Mr Smith

"Fast Track" Arbitration Procedure

I refer to your recent correspondence with Ian Campbell concerning the procedures and timing to apply to the "Fast Track" dispute reviews.

Originally, there was attached to the "Fast Track" agreement a set of detailed draft rules which were being developed for general use in relation to the arbitration of telephone-related disputes. Those draft "standard" rules are referred to in clause 1(b) of the "Fast Track" agreements. The "standard" rules are still being finalised, but they are now relatively close to finalisation.

Telecom has modified a copy of the current draft "standard" rules so as to be specifically suitable for use in relation to the arbitration of the "Fast Track" disputes. The modifications take into account the following:

- the provisions of the "Fast Track" agreements.
- some relevant comments which Austel has recently made concerning the draft "standard" rules, and
- our further views on the rules which should apply to these cases.

A copy of those modified rules is enclosed for your consideration for use in relation to the arbitration of the "Fast Track" disputes.

You no doubt appreciate that there is a need for such rules and procedures to be set before any "Fast Track" review is commenced. That is because the "Fast Track" agreements signed by Mr Schorer, Mrs Garms, Mrs Gillan and Mr Smith, only constitute agreements to enter into an arbitration process. As such, they do not fully document the rules and procedures to be applied to that arbitration process.

D01185

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In the absence of agreed rules and procedures, the following problems could arise:

- the reviews could be seen to be unfair if rules or procedures are applied without prior agreement;
- the reviews could be constantly delayed if agreement is sought to set rules or procedures part way through a review; and/or
- the reviews could fail to achieve resolutions which are legally binding if rules which have not been agreed to, are applied.

It is important that the process to agree and adopt a set of rules and procedures be implemented quickly in the light of your planned timetable for the review of the "Fast-Track" disputes. Please be assured that Telecom will provide every assistance in this regard.

I would appreciate being kept informed of any decision made concerning any rules and procedures to be adopted for these reviews.

Yours faithfully

Steve Black
GROUP GENERAL MANAGER
CUSTOMER AFFAIRS

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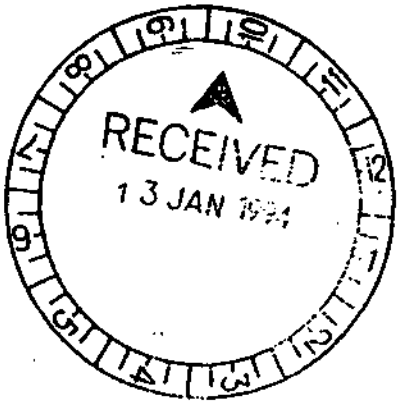
95/0614



Telecom AUSTRALIA

Commercial & Consumer
Customer Affairs

Locked Bag 4960
Melbourne Vic 8100

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

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11 January, 1994

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

Dear Warwick,

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

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

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

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

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

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

Yours sincerely,

Steve Black
GROUP GENERAL MANAGER - CUSTOMER AFFAIRS

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Telecom AUSTRALIA

ATTACH 4

Paul J Rizzo
Group Marketing Director
Pilgrim and Administration
242 Exhibition Street
Melbourne Vic 3000 Australia
Telephone 03) 204 9901
Sydney 02) 284 9901
Facsimile 03) 204 9410

11 January, 1994

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

Dear Dr Horton

VOICE MONITORING

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

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

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

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

[redacted]

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

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

- Information obtained from Telecom, in the course of AUSTEL's regulatory functions, and relevant to any parties involved in a formal arbitration process with Telecom under the control of the Telecommunications Industry Ombudsman (TIO) will only be released after consultation with the TIO and Telecom.

- The AUSTEL draft report will be expedited to ensure that it is available at an early stage of the arbitration process.

- The AUSTEL draft report will be released to the parties involved in the fast track arbitration process for comment in accordance with a process agreed with the TIO, and only after each party has signed a formal document committing to keeping the contents of the report confidential and giving an undertaking not to comment either privately or publicly on the report until after it has been released publicly by AUSTEL.

Yours sincerely

[redacted]

GROUP MANAGING DIRECTOR
FINANCE & ADMINISTRATION

[redacted]

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Telecom AUSTRALIA

11

220.

Commercial & Consumer
Customer Affairs

Locked Bag 4960
Melbourne Vic 3100

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

12 January, 1994

Mr John MacMahon
General Manager, Consumer Affairs
AUSTEL
PO Box 7443 St Kilda Road
MELBOURNE VIC 3004

Dear Mr MacMahon,

I refer to your letter of 31 December 1993 regarding COT cases. I have already responded to paragraphs two to five of that letter. This letter deals solely with the status of Telecom's response to the C&L and Bell Canada reports.

In accordance with our agreement reached in the meeting with yourself and your Chairman, these documents will be released through the TIO at the appropriate stage of the arbitration process.

It is my view that the appropriate time for release is after the assessor is appointed and the procedural rules for the arbitration process have been agreed by all parties.

However, as indicated in our agreement, this decision will be taken in consultation with the TIO.

Yours sincerely,

Steve Black

Steve Black
GROUP GENERAL MANAGER - CUSTOMER AFFAIRS

ACTION COPY

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Legal and Professional Privilege

(54)

FILE NOTE

K00269

File: VSC/42
Date: 12 January, 1994

Files relating to Golden

Ted Benjamin called. He wants us to collect information together for Golden Messengers in a similar fashion to what is being done for Cape Bridgewater under FOI. The assumption is that either the arbitrator or Mr Schorer will be looking for the information soon as a result of the fast track arbitration process.

Trevor Hindson

Started action with Net Ops & NNI 12/1/94.

402

TELECOM CONFIDENTIAL

Internal Memo

Telecom AUSTRALIA

To [redacted] Chalmers

From David Stockdale
P.T.T.O.1

Subject Concerns regarding information supplied

Date [redacted] January 1994

File

Attention

Networks & Interconnect
National Network Investigation
7/35 Collins Street
Melbourne, Victoria 3000
Australia
Telephone (03) 657 3411
Facsimile (03) 654 4601
Pager 016 315 515

Simon,

I feel obliged to voice concerns I have regarding the information being provided regarding the investigations of Cape Bridgewater Holiday Camp and Golden Messengers courier service.

Much of the information provided contains A party number details which should under no circumstances be made available to the recipients of these files. We have been instructed that we cannot remove this information ourselves so the responsibility of ensuring that this private information is not inadvertently included rests with you.

I also have some concern that the working notes that have been included may be mis construed if taken out of context. There is a great quantity of technical information contained therein, some of it relates to testing procedures and equipment recently developed and therefore little understood by those outside our company. If there is anything within the files provide that raises questions in your mind, please feel free to contact me and I will endeavour to help you in anyway I can.

Please call me if I can help in anyway.

Regards,
David Stockdale.
PTTO1 - National Network Investigations, Melbourne.

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R11698

Hunt & Hunt
LAWYERS

18 January 1994

Our Ref: GLH
Matter No:
Your Ref:

BY FAX: 287 7001

Mr Graham Schorer
PO Box 318
North Melbourne VIC 3051

Dear Sir

"COT CASES"

I confirm I have been appointed by the Telecommunications Industry Ombudsman (TIO) as assessor under the terms of the agreement entitled "Fast Track Settlement Proposal".

I will be assisted by a project team under the direction of John Rundell of Ferrier Hodgson. The project team will include Mr Jan Blaha of DMR Group Australia Pty Ltd.

I am aware the parties are anxious for early resolution. My first priority will be to establish the process and procedure for conducting the assessment. In this regard I note paragraph 2(e) of the "Fast Track Settlement Proposal" provides that:

> "The review will be primarily based on documents and written submissions. Each party will have access to the other party's submissions and have the opportunity to respond.
>
> The assessor may, however, call for oral presentations by either party. Such presentations will not include cross-examination, and would not be open to the public or third parties. Representations of the parties will be at the assessor's discretion."

I have been provided by the TIO with a document entitled "Telstra Corporation Limited - 'Fast Track' Proposed Rules of Arbitration". I have not yet formed a view as to the suitability of this proposal. I would be happy to receive an alternative submission on behalf of the COT Cases but it might be more practical to await my comments on the Telecom proposal. Naturally I am anxious to establish a procedure which is acceptable to all parties.

404

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.

When I have formulated my views as to the appropriate procedure for conducting the assessment, I intend to meet formally with a representative of Telecom and a single representative of the four nominated COT Cases in order to finalise arrangements.

In the meantime I shall meet as soon as possible with Mr Rundell and Mr Blaha to discuss the roles of their respective organisations.

I consider it to be inappropriate for me to discuss the merits of the four actions with any involved party except in accordance with the agreed assessment procedure. I nevertheless wish to remain as accessible to the parties as possible. It may be necessary for a party to contact me personally from time to time for reasons unconnected with the merits of the actions. In such circumstances, I nevertheless reserve the right to provide any other party with a memorandum regarding the contact and the issues discussed.

At this stage I have no information at all regarding any of the claims. While the assessment procedure will of course provide for the formal presentation of material, it may be useful if the parties could informally provide me with any material which they jointly agree might be of assistance to me and the project team by way of background.

Yours sincerely

GORDON HUGHES

CC. S Black
J Rundell
J Blaha
W Smith
P Bartlett

ATTACHMENT O

16

COMMONWEALTH & DEFENCE FORCE
OMBUDSMAN

[illegible]

[illegible] January 1994 C/94/195.C/94/225:JW

Mr J R Holmes
Corporate Secretary
Telstra Corporation Ltd.
38th Floor, 242 Exhibition Street
MELBOURNE VIC 3000

Dear Mr Holmes

I received complaints from three of the 'COT Cases', Mr Graham Schorer, Mr Alan Smith and Ms Ann Garms, concerning TELECOM's handling of their applications under the Freedom of Information Act (FOI Act) of 24 November 1993 and 21 December 1993 respectively.

I have summarised Mr Smith's complaint as alleging that TELECOM unreasonably has decided to apply charges to his FOI request and that the charges will be considerable.

Mr Schorer's complaint is that TELECOM unreasonably refused to remit the application fee and is proposing to impose processing charges.

Ms Garms also has complained that TELECOM unreasonably is imposing charges.

All three assert that they require the information to support their submissions to the imminent review in accordance with the Fast Track Settlement Proposal (FTSP) agreed between TELECOM and AUSTEL, and endorsed by the then relevant Minister.

I understand that the FTSP provides a basis for a Proposed Arbitration Procedure that may be applied as a dispute resolution process additional to the Telecommunications Industry Ombudsman scheme. I also understand that TELECOM acknowledges that the COT Cases proposal has assisted TELECOM to clarify its views about dispute resolution processes suitable for small business in the future.

Clearly it is important that the FTSP be given every opportunity to achieve its objectives. As clause 2(e) stipulates that the review will be primarily based on documents and written submissions and that each party will have access to the other party's submissions and have the opportunity to respond, TELECOM should facilitate access by the parties to relevant information. Furthermore, it is important that TELECOM be seen to be co-operating as far as is reasonable.

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In the circumstances, the giving of access to information required by the applicants to present their cases to the assessor appointed under the FTSP is in the general public interest, in the context of s 29(5) and s30A(1)(b)(iii) of the FOI Act. Accordingly, it is my view that TELECOM should waive payment of the application fees in respect of the FOI applications. Also, TELECOM should waive that part of the charges which relates to the information requested which is required to enable the applicants to present their cases under the FTSP.

I should also draw your attention to section 14 of the FOI Act which states:

> Nothing in this Act is intended to prevent or discourage Ministers and agencies from publishing or giving access to documents (including exempt documents), otherwise than as required by this Act, where they can properly do so or are required by law to do so.

In view of the importance of the FTSP, I think that TELECOM should release to the applicants all of the information required by them in connection with presentation of their cases to the assessor, outside the provisions of the FOI Act. TELECOM could invite the applicants to make an application under the FOI Act if they require further information which TELECOM is not prepared to release without considering an application under the FOI Act. Should you decide to withhold some documents, it would be helpful to the applicants if you would describe them so that they may make an informed judgement as to whether to pursue access through the FOI Act.

I should be grateful for your early comments on my views.

Should your officers wish to discuss any of the foregoing they could contact John Wynack on 06 2760153.

Yours sincerely

PS

Philippa Smith
Commonwealth Ombudsman.

Internal Memo

Telecom AUSTRALIA

To As listed

From Alan Humrich
General Manager

Network Operations
Central Area
6th Floor East Tower
Transit Centre 151 Roma St
Brisbane Q 4000
Australia
Telephone 07 837 3212
Facsimile 07 236 4247

Subject REQUEST FOR TELECOM RECORDS

Date 21 January 1994

Attention Ross Marshall - National General Manager, Network Operations
Rick Barry - A/General Manager, Network Operations Eastern Area
John Seamons - National Manager, Network Performance
Ian Comport - National Manager, Operations Processes & Support
Les Chamberlain - Network Operations Manager, Metro Brisbane
Greg Bannister - Chief Engineer, Multiplex & Transmission Technology

The attached request is referred for your action. The author of the request, Simon Chalmers, is from Freehill Hollingdale & Page, Telecom's solicitors. I suggest that you action this request not just for the two customers mentioned but also for Mr G Schorer and Mr A Smith. Information that has previously been sent to the Viewing Room will be accessed from there. It is important to note that material that is not produced for this request cannot be used in Telecom's defence.

Alan Humrich

Alan Humrich
GENERAL MANAGER
NETWORK OPERATIONS
CENTRAL AREA

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MINTER ELLISON MORRIS FLETCHER

BARRISTERS & SOLICITORS

40 MARKET STREET
MELBOURNE VICTORIA

TELEPHONE (03) 617 4617
INTERNATIONAL +61 3 617 4617

FACSIMILE (03) 617 4666

DX 204 MELBOURNE

POSTAL ADDRESS
GPO BOX 769G
MELBOURNE VIC 3001
AUSTRALIA

OUR REFERENCE PLB 928549 FJS

YOUR REFERENCE

DIRECT LINE (03) 617 4651

24 January 1994

Dr G Hughes
Hunt & Hunt
Solicitors
21st floor
459 Collins Street
MELBOURNE 3000

BY COURIER

Dear Gordon

COT matters

Following our meeting on Thursday last, I now enclose revised Procedure for your consideration.

I make the following comments upon it:-

1. The underlying aim of the Procedure is for it to be workable and fair to both parties as being generally in accordance with the "Fast Track" agreements previously entered into.

2. [redacted] whether or not the Procedure should come within the ambit of the Victorian Commercial Arbitration Act 1984. We [redacted] that it should. Relevant considerations were that under the Commercial Arbitration Act:

   - you are entitled to administer oaths and affirmations (S19 (2));
   - subpoenaes can be issued to compel the production of documents (S17);
   - if a party or witness fails to comply with your directions, application can be made to the Supreme Court (S18).

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Further considerations are:

- some of the procedures adopted are somewhat novel in the arbitration context e.g. the use to be made of the Resource Unit. However, arbitration procedures are meant to be flexible and, provided the parties agree, as they will have by signing the Request for Arbitration, this does not concern me;

- under Section 38 of the Commercial Arbitration Act, with the leave of the Court, there is the right to appeal on a question of law arising out of an award. This right of appeal can be excluded under Section 40 by having the parties enter into an "exclusion agreement". Such an exclusion agreement can only be entered into after the arbitration proceedings have "commenced" (Section 40 (6)). Pursuant to Section 3 (5) the arbitration is deemed to have "commenced" once the Request for Arbitration has been signed by both parties. The possibility of having an exclusion agreement could be discussed at your initial meeting with the parties;

- it is provided in Clause 6 that legal representation is to be at your discretion. This is in line with Clause 2 (e) of the "Fast Track" agreement. Section 20 however states the circumstances in which an arbitrator is required to grant legal representation. This regime cannot be amended by the agreement of the parties. In practice, the issue of legal representation will only arise if you require oral submissions and even then there is to be no cross-examination. I would not anticipate the issue of legal representation being of great moment.

On balance, it was decided that it would be preferable to have the Procedure operating under the Commercial Arbitration Act.

3. You will note that I have amended the Procedure so that it is clear that you are conducting four separate arbitrations and will hand down four separate awards although you may combine some aspects of the four hearings. I have also provided that all four claimants must agree to the Procedure before there is a binding arbitration agreement with respect to any of them. I would be interested in your thoughts upon this.

4. As you would be aware, Section 14 of the Commercial Arbitration Act allows you, subject to the Act and to the Procedure, to conduct the proceedings in such manner as you see fit. This gives you a high degree of flexibility. However otherwise, the Procedure must be conducted in accordance with the rules of natural justice.

5. I will be interested in your thoughts on Clause 8 which relates to the Resource Unit. I thought it best to define the Resource Unit in fairly general terms.

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6. In paragraph 1 on page 8, you will note that I have provided for any loss suffered by Telecom as a result of breach of the confidentiality provisions to be determined by arbitration in

accordance with Section 22 (2) [redacted] by [redacted]. Following our discussion, I thought this might be a workable manner of dealing with this difficult situation.

7. Once you are happy with the suggested Procedure, I suggest you convene a preliminary conference with the parties to discuss the Procedure and also to discuss the possibility of exclusion agreements. At this conference you could also inform the parties that you will be informing AUSTEL in accordance with Clause 2 (h) of the "Fast Track" Agreement.

I look forward to discussing the suggested Procedure with you after you have considered it.

Yours sincerely,

Frank Shelton

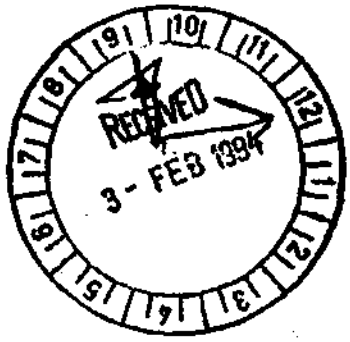
F. J. SHELTON

enclosure

Hunt & Hunt
LAWYERS

3 February 1994

Our Ref: GLH
Matter No:
Your Ref:



BY COURIER

Mr Graeme Schorer
C/- Golden Messenger
493 Queensberry Road
North Melbourne Vic 3000

Dear Mr Schorer

COT MATTERS

I am enclosing my proposal as to the "fast-track" arbitration procedure.

This procedure has been devised in consultation with Messrs Minter Ellison Morris Fletcher, solicitors for the Telecommunications Industry Ombudsman. The proposed procedure is acceptable to the Ombudsman and members of the Resource Unit.

I would be grateful if you would let me have your comments on the proposal as soon as possible. I am prepared to discuss the proposal individually with either of the parties. I am also prepared to convene a meeting involving both parties at short notice, if requested, in order to resolve any outstanding issues regarding the proposed procedure.

Yours sincerely

GORDON HUGHES

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.

408A

GOLDEN

TELEPHONE (03) 329 7355

FAX (03) 328 4462

493-495 QUEENSBERRY STREET
NORTH MELBOURNE VICTORIA 3051
P.O. BOX 313 NORTH MELBOURNE 3051

3 February 1994

Attention: Mr. W.R. Hunt

Hunt's Solicitors
3rd Floor,
358 Lonsdale Street,
MELBURNE. 3000.

Dear Mr. Hunt,

I am forwarding to you by courier, the documentation I have received from Dr. Gordon Hughes.

As a matter of urgency, could you please read this document so that you are in a position to have further discussions or be in a position to advise me.

Subject to any strong advice you may give me, I personally am rejecting the document in total, as this is not an arbitration procedure and I do not intend to be part of an arbitration procedure and I am also informed that the other C.O.T. Case Members do not intend and never agreed to be involved in an arbitration procedure.

We were informed by Austel that this assessment process called the *Fast Track Settlement Proposal* we were agreeing to did not have to comply ~~or be~~ bound by the strict rules contained in an arbitration process.

We were all advised by Austel that we were entering into an assessment process which was vastly different to an arbitration procedure.

I await your considered response.

Regards,

GRAHAM SCHORER.

encs (18)

4088

AUSTEL

AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

92/596(9)

7 February 1994

Mrs A. Garms, OAM
65 King Arthur Terrace
TENNYSON QLD 4105

Fax: (07) 892 3739

Dear Mrs Garms

FAST TRACK SETTLEMENT

The terms of the procedure to be followed by Dr Gordon Hughes in resolving your claim (and the claims of the other three *COT Cases* subject to the *Fast Track Settlement Proposal*) are for you and the other three *COT Cases*, on the one hand, and Dr Hughes, on the other, to agree having regard to Telecom's position. For AUSTEL to become involved in that process would be to usurp the role of Dr Hughes. As stated in his letter of 3 February 1994, Dr Hughes is prepared to convene a meeting to resolve any outstanding issues regarding his procedure. Subject to that qualification, I can, however, provide you with my understanding of the *Fast Track Settlement Proposal* by confirming the advice conveyed to you by John MacMahon, AUSTEL's General Manager, Consumer Affairs, on Friday 4 February 1994 to the effect that -

- The thrust of the *Fast Track Settlement Proposal* was review and assessment. This may be seen by contrasting the words in the *Fast Track Settlement Proposal* with their emphasis on "*a review*" and on "*an assessor*" with the words in the *Proposed Arbitration Procedure* which was attached to the *Fast Track Settlement Proposal*.

- While clause 2(f) of the *Fast Track Settlement Proposal* dealing with the causal link was based on clause 8(j)(iii) of the *Proposed Arbitration Procedure*, it quite deliberately omitted the words "... *giving due regard to the normal rules of evidence relating to causation* ..." which appear in clause 8(j)(iii). While clause *10.2.2* of the *"Fast Track" Arbitration Procedure* which accompanied your fax of 4 February to John MacMahon appears to be consistent with clause 2(f) of the *Fast Track Settlement Proposal*, the words "... *accepted legal principles relating to causation and assessment of loss*" in clause 10.2.3 appear to be at odds with the thrust of clause 2(f).

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- The *Fast Track Settlement Proposal* was silent on the issue of AUSTEL determining a maximum amount recoverable in tort against Telecom. It was certainly not my intention that any amount so determined by AUSTEL should apply to your claim against Telecom.

- While the Fast Track Settlement Proposal was also silent on the issue of "*set offs*", I did have in mind that amounts previously paid by Telecom to you would be "*set off*" against the amount, if any, determined in your favour. The issue of the "*set off*" of "*. . . services carried out . . .*" in terms of clause 10.1.2 of the "*Fast Track*" *Arbitration Procedure* is one you should clarify with Dr Hughes.

Yours sincerely

Robin C Davey
Chairman

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Telecommunications
Industry
Ombudsman

Warwick L Smith LLB
Ombudsman

February 8, 1994

Mr. Graham Schoret
Golden Messenger
493-495 Queensberry Street
NORTH MELBOURNE VIC. 3051

By Facsimile: (03) 287 7001

Dear Graham,

Now that we have settled the appointments of assessor and resource unit and following the very intense discussions and communications about this matter with me, it is my view that the future dealings with my office should be on the following basis for all parties.

- Whilst I am happy to be accessible and amenable to facilitating in whatever way possible the "Fast Track" process, the recent involvement of the Commonwealth Ombudsman has indicated to me, that a far more regimented regime of contact with the relevant parties from my point of view is going to be necessary. The only contact point in my office is Jenny Wrethman my executive assistant.

- I will not entertain phone calls about substantive matters from any party.

- I would be happy to meet in conference at any convenient time, but would require to be present my executive assistant for note taking or my legal adviser, Mr. Bartlett.

- I will not take calls which are requiring of me to make immediate judgments about substantive matters and the expectation for me to do so should not be present in the minds of those making the calls.

The process should be given every opportunity to work and as we have worked hard to establish the environment for this to take place, I hope the opportunity to proceed forward will continue.

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Hunt & Hunt
LAWYERS

15 February 1994

Our Ref: GLH
Matter No:
Your Ref:

BY HAND

Mr John Rundell
Ferrier Hodgson Corporate Advisory
Level 11
459 Collins Street
Melbourne VIC 3000

COPY

Dear John

COT MATTERS

I refer to our conference on 11 February and confirm I am agreeable in principle to the following amendments to the draft "Fast-Track" Arbitration Procedure.

Clause 6

Insert a third dot point:

- "Such member or members of the Resource Unit (as defined in clause 8.1) as the Arbitrator deems appropriate".

Clause 7.5

Add the following sentence:

> "The Arbitrator may stipulate such time frame and such other conditions in respect of the production of documentary information pursuant to this clause as he reasonably considers to be appropriate."

Clause 7.6

Add the words "or sub-clause 7.5" in the second line after the words "sub-clause 7.1".

Level 21, 459 Collins Street, Melbourne 3000, Australia. Telephone: (61-3) 614 8711.
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Clause 7.7

Add the words "or sub-clause 7.5" after the words "clause 7.2" in the third line.

Clause 8.1

Insert the words "(or related entity)" in the third line after the words "Chartered Accountants" and again in the fifth line after the words "South Melbourne".

Clause 8.2

Replace the second sentence with the following:

> "The Arbitrator shall notify the parties in advance of any such proposed activities, stipulating a time frame within which either party may make a submission, verbal or written, in relation to the nature of the proposed enquiries or research. The Arbitrator may at his discretion seek submissions from the parties in relation to findings of fact arising out of such enquiries or research."

I am still not completely relaxed about this clause. I would not be surprised if one of the parties objects to the ability of the Resource Unit to examine material which has not been formally placed in evidence. On the other hand, I can see no alternative way of approaching the problem in a logistically sensible fashion.

Clause 8.4

Delete the words "Subject to sub-clause 8.2,".

Clause 10.2.2

I do not think this clause requires change. In essence, it states that in the process of determining a claimant's losses, I am to establish a link between the loss claimed and the alleged defect and, to assist in this process, I can make reasonable inferences not only from the evidence as formally presented but also from additional information provided to me by the Resource Unit. The wording may be cumbersome but I believe it achieves its purpose.

Clause 20

The existing clause 20 should become clause 20.1. A clause 20.2 should be added as follows:

> "The fees and expenses of individual members of the Resource Unit shall be paid by the Administrator and are part of the administrative costs of the Procedure."

Clause 24

The heading should simply read "Liability".

The existing clause 24 should become clause 24.1 and a clause 24.2 should be inserted as follows:

> "The individual members of the Resource Unit shall not be liable to any party for any act or omission in connection with any enquiry or research or assessment of material in connection with any arbitration conducted under these Rules save that any such person shall be liable for any conscious or deliberate wrongdoing on his or her part."

Please let me know if these amendments would be acceptable to you.

As you are aware, I have not yet heard from Telecom in relation to the proposed arbitration procedure. I am expecting to confer with Schorer and Garns representing the claimants on Thursday 17 February 1994.

Yours sincerely

GORDON HUGHES

cc W Smith

AUSTEL

92/596 (9) AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

17 February 1994

Mr Steve Black
Group General Manager
Customer Affairs
Telecom

Fax 632 3241

Dear Mr Black

FAST TRACK SETTLEMENT PROPOSAL

Further to our telephone conversation of even date, I confirm that the terms of the procedure to be followed by Dr Gordon Hughes in resolving the claims of the four *COT Cases* subject to the *Fast Track Settlement Proposal* are for Telecom on the one hand, the four *COT Cases*, on the other and Dr Hughes to agree. For AUSTEL to become involved in that process would be to usurp the role of Dr Hughes.

Subject to that qualification, I can, however, provide you with my understanding of the *Fast Track Settlement Proposal* by confirming the advice conveyed to you in our telephone conversation to the effect that -

- The thrust of the *Fast Track Settlement Proposal* was review and assessment. This may be seen by contrasting the words in the *Fast Track Settlement Proposal* with their emphasis on "*... a review ...*" and on "*... an assessor ...*" with the words in the *Proposed Arbitration Procedure* which was attached to the *Fast Track Settlement Proposal*.

- While clause 2(f) of the *Fast Track Settlement Proposal* dealing with the causal link was based on clause 8(i)(iii) of the *Proposed Arbitration Procedure*, it quite deliberately omitted the words "*... giving due regard to the normal rules of evidence relating to causation ...*" which appear in clause 8(i)(iii). While clause 10.2.2. of the *"Fast Track" Arbitration Procedure* which I understand has been given to the parties appears to be consistent with clause 2(f) of the *Fast Track Settlement Proposal*, the words "*... accepted legal principles relating to causation and assessment of loss ...*" in clause 10.2.3 appear to be at odds with the thrust of clause 2(f).

- The *Fast Track Settlement Proposal* was silent on the issue of AUSTEL determining a maximum amount recoverable in tort against Telecom. It was certainly not my intention that any amount so determined by AUSTEL should apply to the four *COT Cases'* claims against Telecom.

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A10023

P.1

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- While the *Fast Track Settlement Proposal* was also silent on the issue of *"set offs"*, I did have in mind that amounts previously paid by Telecom to any of the *COT Cases* would be *"set off"* against the amount, if any, determined in their favour. The issue of the *"set off"* of "... *services carried out* ..." in terms of clause 10.1.2 of the *"Fast Track" Arbitration Procedure* is one which perhaps should be clarified with Dr Hughes.

Yours sincerely

Robin C Davey
Chairman

A10024

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File note

Telecom Arbitration

Date: 18 February 1994 **Matter no:** 1673136

On 17 February 1994, between the hours of 9:00 a.m. and 1:00 p.m., I attended the offices of Hunt & Hunt for the purpose of having a discussion in relation to the arbitration rules prepared by Hunt & Hunt (the "Rules").

The meeting started at 9:30 a.m. and in attendance were Gordon Hughes, Peter Bartlett, Ann Garms, Graham Schorer and myself.

Record of Meeting

Ann Garms started by attempting to read from a letter by R Davey (Austel) but was interrupted.

The history of the negotiations leading up to the fast track settlement procedure ("FTSP") was discussed.

Ms Garms stated that all the Cot Claimants wanted was a commercial settlement of the matter, not an arbitration. The FTSP came out of a proposal put by Mr Schorer to John Holmes and I Campbell.

Mr Schorer stated that the Cot Cases had wanted a loss assessor and not an assessment procedure prone to "fine print". The proposal put forward by the Cot Cases was not backed by Telecom and subsequently negotiations got off the rails. Then the Austel investigation began and the media became involved. R Davey acted as a facilitator between Telecom and the Cot Cases. Previously, a draft agreement had been put to the Cot Cases which Telecom had stated would not be changed which turned out to be incorrect).

The FTSP came out of several meetings and was put forward by R Davey.

Mr Schorer and Ms Garms agreed that the FTSP was the agreed way to resolve the dispute between Telecom and the Cot Cases.

Mr Schorer advocated that instead of having a claim, a break and then a defence being filed, both parties ie. the Cot Case and Telecom should do their presentation at the same time to the assessor. Mr Schorer did not like the arbitration procedure and the procedure he advocated was consistent with his understanding of the FTSP.

It should be noted that the FTSP does not refer to an arbitrator but an "assessor".

Mr Hughes indicated that one party can ask for documents once the arbitration has commenced. Mr Hughes advocated this course of action as more effective and that as arbitrator, he would not make a determination on incomplete information.

Mr Schorer asked Mr Bartlett why the FOI law was not as broad as the discovery procedure.

Mr Bartlett did not answer this question directly but confirmed that he believed it was wider and that documents would not be partially deleted as was claimed by Mr Schorer.

Ms Garms stated she had three concerns about the Rules as drafted:

(1) causal link;

(2) flow on effects of treatment by Telecom - adequately compensated; and

(3) Telecom's liability amended to give assessor the right to make recommendations.

Causal Link

In relation to this matter, Ms Garms stated that it was agreed that there would not be a strict application of legal burdens of proof, etc., in relation to the proving of the loss suffered by the Cot Claimants. Reference was made to discussions with Ian Campbell and two Senators. Ian Campbell admitted that Telecom had been remiss. Ms Garms stated that Telecom was in a difficult position and queried the current drafting of the Rules in relation to a requirement that the strict causal approach be applied.

Mr Schorer stated that Telecom was in a difficult position because a lot of the relevant documents either did not exist or had been destroyed.

Mr Bartlett referred to clause 2(c), (f), and (g) of the FTSP in relation to the causal connection. Ms Garms had received advice from R Davey that there was a difference between the FTSP and the old rules that had previously been prepared by Telecom, (not the Hunt & Hunt Rules).

Mr Schorer accepted that W Smith had been appointed as administrator. W Smith had invited the Cot Cases to talk to the TIO and had requested input in relation to the rules beforehand. Mr Schorer was disturbed that once Mr W Smith was in place, there was a document prepared by Telecom of proposed rules for the arbitration. Mr Schorer considered Telecom was already moving away from the spirit of the FTSP.

Mr Bartlett and Mr Hughes both stated that they had not received this document and had not read it and that it was irrelevant.

Ms Garms returned to discussion about causation which was her point no. 1.

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TELSTRA FOI M133449

Mr Hughes expressed his view that the powers of an arbitrator under the Commercial Arbitration Act made an arbitration a more effective way of determining the issues in dispute between the parties.

Mr Hughes stated the problems with an "assessor" were that it was a toothless position and that he was not convinced that it could guarantee the result as either party could withdraw or would not be bound by the result.

Mr Schorer asked if he could pull out of an "assessment" during the process if he did not like the way it was going. Mr Hughes and Mr Bartlett advised that this was not the case as he was contractually bound by whatever the terms of the assessment were.

Mr Hughes stated that an arbitrator had more powers and considering the current facts surrounding the Cot Cases ie. suspicions and the long period of antagonistic negotiations, the adjudicating party would need powers to ensure that all material relevant for the decision was obtained.

Mr Bartlett stated that Telecom and the Cot Cases wanted a method of resolution as a final settlement of the problem - no right of appeal, no resource to the Courts.

Ms Garms agreed with this conclusion.

Mr Schorer stated that he needed documents from Telecom to prepare his case and without this material, he could not go to arbitration. Mr Schorer had raised the issue of documents with Austel and was unsatisfied with Telecom's response.

Mr Schorer stated that there was nothing in the Rules which provided that the Cot Cases were to get the relevant documents. Mr Schorer was disappointed at this stage that since 18 November 1993 2 of the Cot Cases did not have any documents.

Mr Bartlett stated that this was a reason for starting the arbitration as the arbitrator could order the production of documents.

Mr Hughes stated that he was aware of the dispute between the parties but did not have any idea as to the nature and indicated that from this point in time, there were two ways to proceed in relation to the problem of outstanding documents:

(1) the procedure is put on hold until all the documents are exchanged in accordance with the FOI procedure; or

(2) the arbitration procedure commences and then the arbitrator gives appropriate directions for the production of documents.

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1. GENERAL

Crossbar equipment was originally designed to have an operational life in excess of 40 years, before major upgrading of equipment would be required.

It was expected that a small number of components (generally relays) would fail at an earlier time, but maintenance philosophies, using indicators, would identify these faults and have them rectified before degradation to service was noticed by the customer.

Experience with Crossbar common control equipment has shown that the operational life, before major upgrades are required, is closer to 20 years then 40 years due to :-

- Increasing and higher traffic rates than expected.
- Low maintenance effort.
- Under dimensioning of some ranks of equipment.
- Working environment.

Also a number of relays have been found to have a short operational life due to factors such as :

- Number of Operations per year.
- Sequencing of springsets and contacts.
- Design problems causing contact erosion.

These problems have caused early crisis periods in equipment performance.

The following conditions have been observed when an exchange reaches a relay wear crisis point:

- Service to the customer is degraded.
- Current indicators do not highlight the problem area.
- Existing resources, using normal maintenance practices cannot rectify all faults and problems.

When relay wear becomes significant, a different approach to maintenance practices is required if the same performance targets are to be achieved with existing resources.

The intention of this manual is to provide information relating to:-

- Alternative maintenance practices.
- Mechanisms and effects of relay wear.

Holmes, Jim

From: Bruce, Kevin
To: Row, Ian
Cc: Holmes, Jim
Subject: Fibre Degradation
Date: Thursday, 16 September, 1993 3:41PM
Priority: High

You will recall a week or so ago I briefly mentioned that Network Products had experienced difficulties with parts of the optical fibre network and that Gerry Moriarty & Harvey Sabine (GM - Transmission) had asked that I and suitable external litigation experts consider Telecom's legal position.

My initial preference for external legal support was Russell Berry & Wayne Condon. Because one of the possible defendant's (Olex Cables) is a division of Pacific Dunlop Ltd, Freehill Hollingdale & Page had a conflict of interest. Due to the firm's commercial litigation expertise and the knowledge it has acquired of Telecom's supply processes through the Switch Vendor Study, my other preference was Molomby & Molomby. Lindsay Collins & Nick Nichola were available. Molomby's had no conflict of interest, so I have briefed Molomby & Molomby.

Problems were experienced in the MacKay to Rockhampton leg of the optical fibre network in December '93. Similar problems were found in the Katherine to Tenant Creek part of the network in April this year. The probable cause of the problem was only identified in late July, early August. In Telecom's opinion the problem is due to an aculeate coating (CPC3) used on optical fibre supplied by Corning Inc (US). Optical fibre cable is supposed to have a 40 year working life. If the MacKay & Katherine experience are repeated elsewhere in the network, in the northern part of Australia, the network is likely to develop attenuation problems within 2 or 3 years of installation. The network will have major QOS problems whilst the CPC3 delaminates from the optic fibre. There are no firm estimates on how long this may take.

Telecom's sources its optical fibre cable from 3 suppliers, Pirelli Cables Aust Ltd, Olex Cables and MM Cables. These 3 suppliers obtain their optical fibre from Optical Waveguides Australia (OWA) [using Corning technology] and Optix [using Sumitomo technology]. To date Telecom has not experienced any problems with cable that uses Sumitomo technology. From October the cable suppliers will only provide Sumitomo sourced cable. Existing stocks of Corning cable will be used in low risk / low volume areas.

Legal involvement at this stage is part of NWP's risk management exercise. It is clearly understood that any decision to pursue legal options will require senior management endorsement.

Kevin Bruce

"A"

Senator Len Harris

A practical man looking for practical solutions to the nation's problems

MEDIA RELEASE

ALSTON PRAYING FOR CONTINUED DROUGHT
14th Nov 2002

STATEMENT BY SENATOR LEN HARRIS

The widespread drought being experienced by much of regional Australia has been a Godsend for the Federal Coalition and its plan to flog off Telstra to overseas interests.

Telephone industry authorities and the Telstra unions have predicted, with supporting documentation, that the network at large, will fail in the event of a substantial wet season.

Prime Minister John Howard and Telstra Managing Director Dr Ziggy Switkowski, have, according to union sources, just returned from an overseas trip marketing Telstra's shares.

The Government now claims the findings of the Estens Inquiry into Telstra has given it the green light to proceed with the sale of its 51 per cent shareholding, which remains the property of the people of Australia.

The urgency of the Government to unload Telstra is the realisation that it needs a huge injection of capital expenditure just to remain operational.

In other words, sell the whole shooting bag before it rains and let someone else worry about fixing it. Who cares about quality of service for regional Australia, or thousands of jobs soon to be lost?

Never mind the loss of significant and guaranteed government income for years to come.

If the public opposition and ongoing media exposes of Telstra's serious shortcomings continue, institutional investors and perhaps mum and dad speculators might not fancy throwing their hard-earned cash at a communications 'time bomb', as one industry analyst put it.

In light of evidence presented by the Communication Electrical Plumbing Union to a senate inquiry, then to the Estens Inquiry, other court submissions and a large dose of anecdotal evidence from Telstra employees, there seems no doubt the copper and lead network could implode with the onset of rain.

Numerous reports from regional areas that have recently received rainfall, reveal the subscriber fault rate has doubled and tripled due to lack of proper maintenance, faulty materials and understaffing.

I wrote to Dr Switkowski on September 11, 2002 seeking clarification and a solution to a number of problematic issues such as:

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"A"

1.Loss of trained field personnel with local knowledge

2.Faulty materials such as Hi Gel 3M 442 that has corroded copper joints

3.Contractors cutting corners with cable installation

4.Loss of capital works budgets

5.Failure by senior personnel to recognise the magnitude of the impending networks implosion

6. The cessation and outsourcing at the end of this month of all in-house technical training

7.The sale of valuable property such as former line depots and other asset infrastructure

8.Management giving capital works an economic priority order for replacing faulty cables and equipment, i.e. those exchange areas that produce the most profit given priority for repair or replacement. This process could preclude most country areas

9. The loss of considerable ongoing government/public revenue from Telstra

10. Continuing and growing public opposition to the proposed sell-off.

It is interesting that Dr Switkowski has not replied to my query, suffice a phone call thanking me for my interest. One could be forgiven for assuming he is unable to refute the allegations resulting from my line of inquiry.

Now the spectre of a failing lead-sheathed cable network has raised its head and could well be the Achilles heel of Mr Howard's sale plans.

LEAD CABLE FAILURES WILL HIT CITIES

In city and country telephone exchange areas, low gas alarms, sometimes 200 or more a day, are sending technicians in a scurry from exchanges to manholes across the city or country roads and back.

Low gas (inert) pressure below 15kpa in an underground lead cable section sets off an alarm in the exchange. Technicians have to find a fault from where the gas is leaking thus allowing any surrounding moisture to seep in and short out the internal copper cable. The lead cables were introduced some 100 years ago and have long passed their use-by date.

Electrolysis, corrosion and rough handling over this period of time have caused many networks to fail, yet lead cabling remains a significant portion of some city and country networks.

According to the union the CAN or Customer Access Network (customer land lines) accounts for 50 to 60 per cent of Telstra's fixed costs, is maintenance bill, but generates the lowest rate of return.

At its present rate of faults the lead cable system could represent the lion's share of maintenance.

"A"

For example, Queensland country reported 400 gas alarms in a week compared to the metropolitan area recording 386. The dry-air gas bottles are placed at either end of a lead cable to maintain a continual pressure to prevent moisture entering.

The lack of capital spending by Telstra to replace lead is further compounded by weekly bottle replacements of an average 142 in metropolitan areas against 300 bottles in country areas at a cost of $100 each for large sizes. The bottles are hired from BOC Gases.

In New South Wales the figures are proportionately worse. Sources say NSW is averaging about 3200 bottle replacements a month.

Compound this maintenance cost with the cable occupancy rate of between 85 and 105 per cent and it is not hard to see why Telstra management and the government want out.

Some industry analysts have placed the capital expenditure to replace the ageing lead and faulty copper network in the hundreds of millions to perhaps the billion-dollar range.

Furthermore union technical sources claim there would be very few "if any" qualified technicians or jointers remaining in Telstra ranks with the capability of cutting over large lead cables to fibre optics.

Present technology has not provided any alternative to the copper local loop which is essential for the delivery of most revenue-raising services except mobile-to-mobile calls.

In a recent interview, Telstra's managing director of wireless and wireline, Ken Benson dismissed wireless transmission as a "niche player" saying that fibre may not be an economic solution for a number of years yet.

Telstra must start replacing the faulty gel coated copper and corroded lead networks immediately.

Estens, in recommendations 2.7 and 4.2, has clearly identified problems with the pair gain system, that allows multiple calls on a single pair of wires. It provides a good financial return for Telstra but is unfair on customers and repairmen.

The pair gain system forms much of Telstra's existing network matching thousands of dead cable pairs to subscribers' phones that ordinarily ought to be replaced.

In 4.2 Estens refers to Internet "dial-up data speed issues" caused by poorly performing pair gain systems.

Telstra's much publicised ADSL (Asymmetrical Digital Subscriber Line) which delivers greater internet speed and functionality is not available in those rural or regional exchange areas where a pair gain system is in operation.

The government's virtual 'no strings attached' sale of Telstra does not reassure those living outside of the metropolitan area that ADSL will ever be available unless a new private owner is prepared to inject several hundred million dollars in upgrading.

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"A"

ADSL is also not available in some metropolitan areas (Townville) where the new fibre optic cables have been installed as ADSL is only configured to operate on copper hard wire, unless a RIM network is installed as part of the above mentioned upgrade to convert the signal for fibre optic, ADSL is not available.

Australia Post, could be a viable alternative for the interim, however the government plans to sell it off next year.

Pigeon breeders might soon make a comeback.

ENDS

FURTHER DETAILS: Senator Len Harris PH: 07 4092 3194 Email: senator.harris@aph.gov.au

PO Box 2305 Mareeba Qld 4880
Tel: (07) 4092 3194
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CAN WE FIX THE CAN ?

[redacted]

A selected group of staff in New South Wales South & West Region (Consumer and Country Division) have recently conducted an intensive examination and testing process of cables feeding out of eight rural exchanges. The initial aim was to gather information about the real level of transmission related faults, however, the findings create great concern over the degree of DC faults.

With over 350 working services, and as many spare cable pairs tested to date, it can be said that:

* Any customer beyond the 6.5 dB limit, and thus needing either loading or conditioning, is seriously out of transmission specification. Not a single service has been found which is even remotely close to correct.

* Any service operating on loaded pairs, and terminating in a T200 handset, has serious deficiencies in the sidetone level.

* Any service connected via a rural distribution cable method has a 70% chance of having a DC fault (earth, foreign battery or, loss between) sufficient enough to significantly degrade the level of service. An additional 20% have DC faults of a less serious degree. That is, 90% of services exhibit either a foreign battery, earth, or loss between fault.

* Almost 100% of rural Elevated Joints (EJ) exhibit a multitude of DC faults caused by poor work standards.

* Unless a new customer is within a few hundred metres from the exchange, it is impossible to find a totally fault free spare pair to use. That is, the fault rate on spare pairs is even higher than on working services.

* Many lengths of cable are being replaced without justification.

* Faults are not being repaired at all - the service restoration method is to transpose around the problem. This applies to faults in joints as well as cable lengths.

* There is a zero level of field staff understanding of transmission testing techniques and operating principles.

* Modern testing equipment, whilst being adequately supplied, is only being used by a minority of staff. And even then, in limited variety and circumstance.

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

BACKGROUND

Within the ambit of the Transmission Quality Improvement Project (TQIP), it was decided to survey a number of rural services. Initial discussions with others who have tried to do similar, revealed tat to simply try and measure each service was doomed to failure. Past experience showed that lines normally had multiple DC faults which needed to be repaired prior to any transmission testing.

A team of six staff (3 technicians and 3 lines) were selected and then trained. The training consisted of a complete overview of network transmission, dB theory and measurement, hybrid theory, test instruments, fault finding techniques, and cable parameters. Throughout the training period, use was made of "experts" to fully explain each subject. Initially, a classroom environment was used, but then reverting to field training, and practical application.

As a consequence, the staff don't only know about Transmission - they understand it !

A basic work process was developed for the group to follow. This has needed significant modification, and will require more, as the project develops.

The process used is to test all pairs (including spares) from the exchange. Using a Lines Test Set, CZ3000 and Echoflex, DC faults are identified and logged. Then each joint is opened, inspected, corrected, and tested towards the next one. On the rare occurrence that a loading coil is encountered, the circuit is tested with a Simline and HDW T08/3 PET. When lengths which can't be repaired are found (tested with Dynatel 573 and 18B), working services are transposed onto the best pairs, or in extreme cases, a length is run over the ground. When all faults are cleared, long lines are fully tested with the Simline. Sidetone is checked initially by the rather simple "blow/click" method, and if in doubt, an A215 is used to generate 100 dBA CTS into the transmitter, and measured with a Sound level meter at the receiver.

5. Sidetone testing did not take place on the early test areas. We have now progressed to where we test most long lines, plus those within a few hundred metres from the SCAX. Therefore, percentage figures are not valid.

6. The figures for earlier test areas are estimates only. eg; the number of remade joints were not counted because it was not expected that the quantity would be so great.

7. All joints which were not fully remade, still required repair work - there has been no single joint found which did not require correction of faults.

8. Tests on spare pairs are only valid within a short distance from the SCAX. Most spares go to open circuit within one (1) kilometre, and thus, faults detected are within that length. Beyond that, specific figures have not been retained for faulty spares within each individual cable length.

SPECIFIC and GENERIC EXAMPLES

Types of problems found in rural cables and joints include:

No bag over the unsheathed conductors. - this creates insulation breakdown, particularly on the mates. Joints have been found where some wires were completely devoid of insulation.

Excess sheathing removed. - allows the above problem to occur more rapidly, and to a greater degree. The worst example found had 3 metres (that's right, you didn't read it wrong) of stripped cable inside an EJ.

Wrong size jointing posts. - The standard size post can accommodate up to 30 pairs of 0.90 mm cable, provided that there are only the two cables plus lead-ins. Standard posts with up to 50 pairs or with three or more smaller cables are quite common. The effect is to "jam or squeeze" the conductors so that they are in direct contact with the cover. Over time, the results are pairs earthing out on the post, insulation "sticking" to the cover etc.

Twist and sleeve joints on grease cable. - insulation on grease cable is not designed to take the stress of twisting (it breaks the insulation further down the wire). Another similar matter is where the whipping from within the cable has been used to tie off groups rather than using collets. The effect is the same as for twist joints - the insulation in filled cable cannot take the stress and is quickly damaged.

Faulty connectors - this appears to be a contentious problem. Field staff suggest that a certain percentage of connectors are crook and that they, the users, can't do anything about it. Our tests indicate that firstly, this percentage is very, very low, and secondly, if the joint is completed in a slower and more methodical way, any faulty connectors are easily detected. A final visual check of the joint will also highlight any faulty units which have slipped through. Worse case that has been found so far was a complete cable route where every joint had connectors which hadn't been fully crimped. Clearly someone using either a faulty tool or crimping technique.

Particularly alarming is the number of joints found with clear signs of recent activity (eg; one or two pair with new connectors etc) but with numerous other major fault conditions. It is beyond comprehension to understand why someone would open a joint and see that all pairs were suffering severe insulation breakdown, but then only fix a single pair.

Elevated joints which are prone to damage and/or faults create another conundrum. Examples are where cattle continually use our EJs as rubbing posts (and that's no bull)- why do our staff just go along and replace the unit exactly where it was ? There are many ways to permanently solve the matter.

A further example is where joints are located in bad positions such as swamps. This raises the question of the original design, and then the original installation, and then the ongoing maintenance. The best example of this is a joint so deep in a swamp that a pair of fisherman's waders was needed to get to it. The actual joint was permanently underwater except during drought conditions ! Unlike most farmers across the Nation, those in this area pray for drought !.

Transposing pairs has created a nightmare of problems. In order to either connect a new service, or to locate a fault, almost every joint on the route needs to be opened this generates a number of "man made" faults for every one cleared. If the cable is kept straight, then new services can be connected by opening only a single joint. Likewise, a fault can be located to the nearest joint and again, only a single joint disturbed. The findings of the transmission group indicate that the more transpositions which have occurred, then the more fault prone is the cable route.

INITIAL FINDINGS

As a Russian General once said, "the original fail safe master plan only survives until the enemy is first met". And so it was with the CAN transmission group.

The quantity and severity of DC faults were way beyond expectations. Furthermore, most circuits had multiple faults on them - and many were caused by problems in joints. To date, no single EJ has been found which can be said to be perfectly correct and fault free !

Another complication is the faults which have been proven into cable lengths. Given that the aim is to fix the faults, rather than just replace cables, this has meant a lot of digging and repairing. Obviously not all cables can be repaired, and thus must be replaced. When these are identified, a cable replacement report is submitted.

The greatest loss of time can be attributed to the attitude of "don't fix, just transpose around the problem". The problem is so bad that our process has had to be altered so that stage 1 is to now straighten the cable pairs and clear DC faults. It is quite common to find services working over split pairs; more often than not because of a fault in a joint. These splits are frequently on 2 x A legs or B legs - any two wires seem to do: after all, they are only bits of copper! Bad luck about the introduced cross-talk.

Some facts and figures: (with locations identified as 1,2,3 etc rather than by name)

LOCATION	1	2	3	4	5	6	7
SERVICES	41	61	49	35	17	29	92
FAULTY (DC)	5	33	43	35	17	17	73
LONG LINES	16	11	nil	18	17	4	40
TRANS FAULT	16	11	-	18	17	4	40
SPARE PAIRS	29	49	21	24	11	1	58
FAULTY	29	37	18	20	11	8	43
JOINTS (EJ)							
REMADE %	90	90	95	100	60	70	100
REPLACED	3	4	5	7	nil	5	14
DIG & FIX	5	3	6	7	nil	4	19
SIDETONE							
TESTED	nil	nil	nil	15	nil	29	37
WRONG	-	-	-	15	-	14	31

NOTES

1. Location 1 had only 5 services with DC faults over the "Standard SLIQ" levels of 5 volts battery, and 1 Megohm insulation resistance. An additional 28 services had faults of a lower severity.

2. Location 5 was a single route feeding a remote area with all services loaded. This route was used as part of the training program, and thus not fully tested.

3. Location 6: According to plans, the 4 long lines are not outside limits - however, because 0.90 cable has been replaced with 0.64 mm, they now have approx 1 to 2 dB excess loss. These customers have had their sidetone corrected and there is no need to worry about the loss, given that the lines are maintained with absolutely no DC faults.

4. Location 7 had a cable route which fed through extremely rough mountain country. This cable was in very poor condition with many faults in cable lengths. It was decided because of the high cost of replacing the cable, it was viable to dig and repair far more often than would normally be the case. Even then, a section must be replaced due to the ingress of water.

Don, spent last Friday morning attempting to measure line resistances at Rockbank - but it was abortive because no-one was at the premises, and can't do measurements without someone at the premises. Aim to do the Fish Farm on Wednesday, all being well. Some measurements have been done on the Voice-link cables and they show a slightly higher resistance than theory. After travelling the cable run, I can understand why ! The measurements on Friday morning did, however, show that there are significant cable problems between Rockbank exchange and Dawson's premises. Ideal solution is to plow in new cable by shorter route - I will be talking to John McCoy (CAN) about this.

The measurements are being done by the Power Co-ordination people and they do have other work to do and are short staffed.

I am not aware how Alan H's ringer measurements are progressing, but I suspect they should have been finished by now.

The theoretical analysis is currently being refined to take into account the quirks in ringer installations that keep turning up - refer to earlier message about non-standard ringer at Jindabyne South! Parameters for Cape Bridegwater RCM have been obtained, but I don't believe them - I am attempting to check them. Some of the people supplying this information live in "old Telecom" !

Peter.

From: Pinel, Don
To: Gamble, Peter
Cc: Blake, Ed
Subject: RE: CAN Testing
Date: Monday, 15 November 1993 5:19PM

Peter

I need this more and more every day. When can I get it and which custoemrs will it cover. We need to extend this to all customers covered by teh Austel direction and get it completed by the end of this week.

Don

From: Gamble, Peter
To: Pinel, Don
Cc: Blake, Ed
Subject: RE: CAN Testing
Date: Wednesday, November 10, 1993 10:08AM

Don, I will put some words around it today and summarize the results in a table and then forward it to you. By then I should have resolved the Fish Farm cable details!
Peter.

From: Pinel, Don
To: Gamble, Peter
Cc: Blake, Ed
Subject: RE: CAN Testing

A09392

418

Hill, Trevor

From: Darling, Peter
To: Johnstone, Philip R; Hill, Trevor; Quan, Alex
Cc: Clarke, Lawrie; Duc, Nguyen; Darling, Peter; Dugan, Yasmin
Subject: FW: AUSTEL Mandatory Performance Regulation
Date: Monday, 13 December 1993 10:41AM
Priority: High

From: Darling, Peter
To: Campbell, Ian; Marshall, Ross
Cc: Hambleton, Dennis V
Subject: AUSTEL Mandatory Performance Regulation
Date: 13 December 1993 10:38
Priority: High

Ross and Ian,

This E-Mail is to alert you to a possible regulatory interaction with the current work on "COTS Cases" and ongoing work with AUSTEL on network performance.

As you know, a Ministerial Direction gave AUSTEL power to set end-to-end network performance standards. The AUSTEL Standards Advisory Committee established a working group (designation WG 12/1) to set these standards, and Telecom has had a fairly hostile reception in this working group.

Yasmin Dugan from my area has been co-ordinating this work, working closely with Network Products (especially Operations) and the Business Units. The AUSTEL staff member leading the group originally wanted a very wide list of mandatory parameters, but after discussion with Bob Horton and a presentation to the Standards Advisory Committee by Yasmin, AUSTEL have agreed to limit the scope of the initial work to the few parameters our customer surveys had shown as being of most concern. This work is now well advanced.

I believe that the "Service Operation Deemed Satisfactory" Project Team as part of the COTS case work has also been looking at issues relevant to a service specification and testing procedure, and that originally they came out with a large number of parameters to specify and test.

The powers to set mandatory performance standards that AUSTEL has been given could well be used in some sort of regulatory outcome from AUSTEL's current COT case investigation. I believe it is essential that we provide a consistent approach to AUSTEL. I'm hopeful that your team has taken Telstra's corporate position to AUSTEL as the starting point for their work. I strongly request that you give us early advice if for strategic reasons we should change our position with AUSTEL in the SAC and the working group 12/1.

Peter Darling,
Standards & Regulatory Strategy

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Hunt & Hunt
LAWYERS

21 February 1994

Our Ref: GLH
Matter No:
Your Ref:

BY FAX: 287 7001

Mr Graham Schorer
Golden Messenger
493 Queensberry Road
North Melbourne VIC 3000

Dear Graham

COT MATTERS

I enclose the following:

(a) letter from Telecom dated 17 February 1994 commenting on the proposed "Fast Track" arbitration procedure;

(b) copy memorandum by Peter Bartlett of Messrs Minter Ellison Morris Fletcher concerning the COT Case response to the proposed procedure; and

(c) copy letter from me to Ferrier Hodgson Corporate Advisory summarising the outcome of my meeting with representatives of the Resource Unit in relation to the proposed procedure.

I have set out below a summary of the issues raised by the various parties and my recommendation (made after consultation with Mr Bartlett) in relation to those issues.

It is my opinion that the recommendations set out below are reasonable and should not present either party with any serious basis for concern. If these proposals are acceptable in principle, I shall instruct Messrs Minter Ellison Morris Fletcher to redraft the Arbitration Procedure, with a view to execution later this week.

I think it would be inappropriate for me to personally engage in further dialogue with the parties in relation to the contents of this letter. Please direct any comments direct to Mr Bartlett. I would be grateful if you would endeavour to communicate with him within 48 hours.

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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Clause 5

In relation to the first paragraph, Telecom seeks amendments to provide that the arbitration will commence in relation to each claimant when that claimant has completed the formalities. It is not necessary to wait until all four claimants have completed the formalities.

Recommendation: agreed.

In relation to the third paragraph, Telecom seeks to reserve normal rights of appeal arising under the Commercial Arbitration Act.

Recommendation: agreed.

Clause 6

In respect of the first paragraph, Telecom proposes that the arbitrator have the discretion to permit a party's professional consultants to be present, with a reciprocal right for the other party to have its consultants present in such circumstances.

Recommendation: agreed.

Also in relation to the first paragraph, Ferrier Hodgson proposes that specific mention be made of the right of a member of the Resource Unit to be present, at the arbitrator's discretion.

Recommendation: agreed.

Clause 7

Concern has been expressed by the COT Case representatives about the time frame for submissions.

Recommendation: I am happy to introduce greater flexibility into the proposed time frame. This can be achieved by inserting an initial sub-clause to the effect that "the time frames for compliance referred to in this clause are subject to the overriding discretion of the Arbitrator and may be the subject of submission by the parties".

Telecom has suggested that clauses 7.1, 7.2 and 7.5 be amended to provide each party with the same rights to request documents from the other, such requests to be made through the arbitrator and to be subject to the arbitrator's discretion.

Recommendation: agreed.

Also in relation to clause 7.5, Ferrier Hodgson suggests that the arbitrator be required to stipulate a time frame in relation to the production of documents.

Recommendation: agreed.

In relation to the production of documents, Telecom recommends a specific exemption for documents protected by legal professional privilege.

Recommendation: agreed, subject to the right of the Arbitrator to hear submissions on whether particular documents are protected by legal professional privelege.

Clause 8

In relation to clause 8.2, Ferrier Hodgson suggests a re-wording to make it clear that the arbitrator will notify the parties in advance of any proposed inspection or examination by the Resource Unit and that the arbitrator should have the discretion to seek submissions from the parties in relation to finding of fact arising out of such inspection. Commenting on clause 8.4, Telecom believes the arbitrator should disclose to the parties all advice received in consultation with the Resource Unit (ie interpretative conclusions as well as findings of fact).

Recommendation: agreed.

Clause 9

Telecom objects to the claims being heard together as each case may involve different considerations of fact.

Recommendation: given that the claims will be heard simultaneously, the arbitrator should by leave of the parties concerned have the right to transpose common findings of fact from one case to another in appropriate circumstances.

Clause 10

The Claimants seek a specific reference to clause 2(g) of the Fast Track Settlement Proposal in the opening lines of clause 10 so as to clarify the parameters of the arbitrator's powers of assessment under this procedure.

Recommendation: agreed.

The Claimants seek the deletion of clause 10.2.3 on the grounds that the wording of clause 10.2.2 directly reflects clause 2(f) of the Fast Track Settlement Proposal and is therefore adequate.

Recommendation: agreed.

Clause 16

The COT Case representatives have, subsequent to the meeting on 17 February, withdrawn their objection to this clause.

Telecom has proposed additional provisions requiring formal confidentiality undertaking to be signed by all persons who are privy to the proceedings.

Recommendation: agreed.

Clause 19

Telecom is not satisfied with the proposal that in the event of a breach of confidentiality, its damages arising from the breach will be determined by an independent arbitrator. Telecom proposes that in the event of unauthorised disclosure, any obligations imposed upon Telecom pursuant to the procedure should be rendered null and void and any moneys paid to the claimants should be refundable.

Recommendation: agreed.

Clause 23

Telecom recommends that persons authorised to receive notices be specifically identified.

Recommendation: agreed.

Clause 24

The Special Counsel and members of the Resource Unit seek an exclusion from liability for any act or omission, to the same extent as the arbitrator.

Recommendation: agreed.

New Clause 25

Telecom seeks a return of documents within 6 weeks of publication of the award.

Recommendation: agreed.

Schedule A

The Claimants seek specific reference to clause 2(c) of the Fast Track Settlement Proposal (or a replication of the wording of that clause) in Schedule A.

Recommendation: agreed.

Schedule E

If Telecom's proposals regarding clause 5 are accepted, this Schedule would be deleted.

Recommendation: agreed.

Yours faithfully
HUNT & HUNT

Encl