

CAV
CHRONOLOGY
LGE
Exhibit 819 to 843



Office of Customer Affairs
Commercial & Consumer

Level 37
242 Exhibition Street
Melbourne Vic. 3000

Telephone (03) 9834 2877
Facsimile (03) 9832 3225

24 May 1995

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

By facsimile: (055) 267 230

Dear Mr Smith

Your FOI Requests of May 1994

Further documents have recently come to light that fall within your FOI requests of 1994.

Copies of these documents are enclosed. At this time a table has not been prepared giving decisions in relation to these documents as it was considered by Telecom more important that you receive copies of the documents now. A table listing Telecom's decisions in relation to all documents shall be forwarded to you in two weeks.

Telecom makes the following comments in relation to the documentation:-

1. At least 50% of the material being forwarded to you has been forwarded to you previously in other files;
2. Telecom's defence team did not have the opportunity to use this information for its defence.

Yours faithfully

Ted Benjamin
Group Manager
Customer Affairs

Encl:

AS 819

If you are unable to reach us on our new 8 digit number, your equipment may need adjusting. Please call our helpline on 1200 888 432.

TB-A5072.DOC

MATTERS OF PUBLIC INTEREST Telstra

Senator BOSWELL (Queensland--Leader of the National Party of Australia) (1.08 p.m.)-- At the moment there are customers of Telstra who, for many years, have also been casualties of Telstra. For years they have experienced problems with dead lines, lines dropping out, busy signals when it was not busy and many more. They complained, even to the point of not paying their bills and having their phones cut off, which they desperately needed for their business, all in a desperate plea to Telecom to fix their lines.

In one member's case, there was acknowledgment of lines being physically removed, with Telecom officers stating that there was a prima facie case existing for conviction if the offender could be found. These were all once successful business people, with the type of business that relied on a telephone service fit for their purpose: a service they did not receive. Eleven years after their first complaints to Telstra, where are they now? They are acknowledged as the motivators of Telecom's customer complaints reforms. As a direct result, a telecommunications industry ombudsman has been set up and a complaints resolution process established. But, as individuals, they have been beaten both emotionally and financially through an 11-year battle with Telstra. Now their bankers have lost patience with their lengthy dispute settlement and they are going down fast.

Following an investigation of the initial settlement, accepted under duress, Austel, the industry watchdog, came out with a highly critical report of Telecom and the settlement was re-opened. The Austel report concluded that Telecom was less than a model corporate citizen--damning words for our nation's monopoly telecommunications provider which, at that stage, was entering a new period of competition. It recognised Telecom's failure to undertake preventative rather than corrective maintenance on its older analog equipment, some dating back 30 years, as a significant cause of persistent, intermittent faults and that Telecom had clearly put supply side efficiencies ahead of customer concerns.

There is the admission by Telecom to

Austel:

It is of little or no bearing on the case that some of the testing has been purged from the system because we do not require these records to be convinced that this customer has serious concerns with her telephone service.

Backing up the Austel inquiry were critical reports by Coopers and Lybrand, describing Telecom complaints handling as not meeting the minimum requirements of 'adequacy, reasonableness and fairness', and a technical review by Bell (Canada) of Telecom's testing and fault-finding techniques for network faults. Then followed the Federal Police investigation into Telecom's monitoring of COT case services. The Federal Police also found there was a prima facie case to institute proceedings against Telecom but the DPP, in a terse advice, recommended against proceeding.

To this day the parties of the parliament have been denied any access to the Federal Police inquiry or advice from the DPP on the matter--despite persistent demands not only from the coalition but from the Democrats--or matters of the DPP wrongly advising the Federal Police that Telecom was protected by the shield of the Crown and that they could not execute a search warrant against Telecom in their investigations of alleged phone monitoring and tapping.

Once again, the only relief COT members received was to become the catalyst for Telecom to introduce a revised privacy and protection policy. Despite the strong evidence against Telecom, they still received no justice at all. Meanwhile, COT members were still experiencing poor telephone services, their businesses were continuing to suffer and they had been forced to enter the exhausting and expensive process of involvement in all these major inquiries into Telecom.

A Senate inquiry began to be mentioned by senators on this side and the Democrats. In late 1993, Senator Alston and I, at a meeting in Senator Alston's Parliament House offices, were given an assurance by senior Telecom officers that a Senate inquiry would not be necessary--that a fast track, non-legalistic process could be set up, that it would facilitate

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FOI access to Telecom's documents and that it would be all over by April 1994. That process was to be overseen by the Telecommunications Industry Ombudsman. FOI documents from Telecom show that Telecom certainly did not want a Senate inquiry when they refer to:

... walking away, but I do not believe this option would suit Telecom's wider strategy in that it would appear to lead directly to a Senate inquiry.

My course therefore is to force Gordon Hughes--

the arbitrator--

to rule on our preferred rules of arbitration.

A fast track settlement proposal was signed by the four COT members in November 1993 and the fast track arbitration procedure on 24 April 1994, involving a confidentiality clause forbidding COT members any further public comment on Telecom. Even during this period of negotiations on the arbitration rules, FOI was being held up by Telecom. One Commonwealth Ombudsman's report on delays in FOI information condemns Telecom's denial of documents in the following words:

It was unreasonable for Telecom to require the participants to make further assurances while Telecom was considering the arbitration agreement and thereby denying participants the opportunity to consider the rules that Telecom wished to have included in the agreement.

I ask the Minister representing the Minister for Communications and the Arts (Senator McMullan): is this fair play on the part of Telecom? The report goes on:

There is no provision in the FOI Act which would permit Telecom to impose such conditions on applicants prior to granting access to documents--access under the FOI Act is public access.

These COT members have been forced to go to the Commonwealth Ombudsman to force Telecom to comply with the law. Not only were they being denied all necessary documents to mount their case against Telecom, causing much delay, but they were denied access to documents that could have influenced them when negotiating the arbitration rules, and even in whether to enter arbitration at all.

This is an arbitration process not only far exceeding the four-month period, but one which has become so legalistic that it has forced members to borrow hundreds of thousands just to take part in it. It has become a process far beyond the one represented when

they agreed to enter into it, and one which professionals involved in the arbitration agree can never deliver as intended and never give them justice.

Firstly, it was represented to members that it would be fast. It was called a 'fast track arbitration process'. There were many documented assurances given to the COT members on timing and a quick resolution. The assurance was given by Telecom to the deputy Liberal Party Senate leader, Senator Alston, and to me, the leader of the National Party in the Senate, late in 1993 that it would be fast track and non-legalistic and would facilitate FOI documents.

There is the letter from Peter Bartlett, special counsel to the TIO, on 25 February 1994 saying:

The emphasis is on "fast track" resolution of these claims.

It stated also:

With this in mind the arbitration is likely to commence this week and will be completed at the shortest possible time frame.

There is the detailed timetable from the TIO scheduling the final report after four months. Then there have been the delays caused by Telecom's FOI documents. The Commonwealth Ombudsman has twice reviewed Telecom FOI delays and has been very critical of, in her words, 'Telecom's defective administration'.

There have been further delays, referred to by the ombudsman as 'unreasonable', because Telecom sent FOI documents to be vetted by their lawyers before release to members, and delays caused by the destruction of documentation--in the case of the Tivoli Restaurant, all Telecom's raw data on testing from 1989 to July 1993. What this has meant is that the COT members, as Telecom has dripped their FOI, have had to resubmit their statements to the arbitrator to include the delayed information.

To give an example of the experience of COT member Ann Garms with FOI documents, she applied to Telecom for FOI in December 1993. In February she received approximately 10,000 documents. In April the arbitration procedure was signed; then in May 20,000 more documents turned up. From May to December 10,000 more documents were dripped, continuing till June this year--all for a process promised to be completed within four

months.

This is a situation of the might of a monopoly like Telecom, with all the resources behind it--said to add up already to millions of dollars--which has to be countered by four struggling business people. And now, despite assurances of fast track, which bankers and other supporters were reassured was the guiding principle of the arbitration, 18 months later the four suffering COT members are left with only one COT case settled and Telecom has made the non-legalistic arbitration process so legalistic that it has cost one COT member nearly \$300,000 to answer Telecom's protracted process.

There have been many scathing reports of Telecom's defective behaviour by Austel, Coopers and Lybrand, the TIO and the Commonwealth Ombudsman. A second Commonwealth Ombudsman report is due out any day--with the first going so far as recommending compensation from Telecom for any costs unnecessarily incurred because of the defective administration by Telecom, which ironically now involves another costly mediation process for the COT members involved. The TIO, in his annual report, described the whole process as:

... clearly the low water mark of effective customer relations, regulatory agency response and questionable direction from past management.

He continues:

Regrettable reliance on excessive legalism and failure to meet freedom of information requirements in a timely fashion has led in my view to an unnecessary prolongation of a process which was intended to be speedy.

The expense these COT members have been put to, arising from the so-called fast track arbitration process, has seen several go to the wall.

I regard it as a grave matter that a government instrumentality like Telstra can give assurances to Senate leaders that it will fast track a process and then turn it into an expensive legalistic process, making a farce of the promise given to COT members and the inducement to go into arbitration. The process has failed these people and can never give them justice--a point confirmed by professionals deeply involved in the arbitration process itself and by the TIO's annual report, where conclusion is described as 'if that is ever achievable'.

The COT members would never have opted for arbitration had they known it would go on so long at a cost of hundreds of thousands of dollars in legal and other expenses. Here are people who Telecom knows are on their knees, and the system becomes so legalistic that, to answer two Telecom requests for further particulars, it requires an additional \$45,000. These people have had their lives ruined by the process that has followed from daring to take on Telecom. It does not stop there. Many people have lent COT members funds to see them through the process based on assurances given by Telecom to Senator Alston and I and written assurances from the TIO that disputes would be settled within months, also risking their houses and businesses because of the outrageous delays.

Telecom has treated the Parliament with contempt. No government monopoly should be allowed to trample over the rights of individual Australians, such as has happened here. It brings me no joy to bring this matter before the Senate. I would rather be here praising Telstra, an Australian icon. But they are not bigger than the Australian people and, through them, the parliament. Telecom has been highly criticised by many government watchdogs all through the process, yet sadly, it is the poor struggling Telstra customers who are having to bear the ultimate burden of financial ruin.

Motion (by Senator Sherry)--by leave--agreed to:

That the sitting of the Senate be suspended till 2.00 p.m.

Sitting suspended from 1.21 to 2.00 p.m.



Commercial & Consumer

37th Floor
242 Exhibition Street
Melbourne Vic 3000

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

8 April 1994

Mr Robin Davey
Austel
By Facsimile: 820 3021

Dear Mr Davey

Preliminary Draft Austel Report ("the Report")

The purpose of this letter is to confirm Telecom's comments made to your officers in respect of the preliminary draft of the Austel Report which was made available to Telecom for comment.

Those comments are covered in the following three sections: General Comments, Key Issues of Major Concern to Telecom, and Comments on Secondary Issues.

Telecom's General Comments

As a broad comment, if the Recommendations in the Report reflect the amendments and additions I discussed with Mr MacMahon yesterday, then Telecom would consider the Recommendations substantially acceptable and would so state.

However, Telecom understood the purpose of Austel's Report was to assess defects in Telecom's process of dealing with customer complaints of persistent faults, and the Report fails to accomplish this objective. Telecom is willing to accept a report that illustrates the history of the problem by describing the COTs' complaints, fairly presenting Telecom's responses to those complaints, analysing how Telecom's processes and systems may have failed to address and resolve those complaints in a satisfactory and timely manner, and then presenting Austel's Recommendations for improvements. Telecom cannot accept a report that merely repeats unsubstantiated, and in some cases defamatory, claims without giving equal space to Telecom's reply, thereby giving express and implied support to those claims. Austel is not in a position to arbitrate on the merits of those allegations.

Austel and Telecom have agreed that Dr Gordon Hughes, as arbitrator, will adjudicate on the merits of those claims and will determine the amount of compensation, if any, required. This is not Austel's function, nor has it conducted the kind of investigation that would enable it to responsibly make such determinations of law or fact.

Telecom acknowledges that its handling of aspects of the COT cases has not always been ideal and recognises that improvements need to be made, as has been evidenced by Telecom's prompt and diligent response to the recommendations of the Coopers and Lybrand Report.

However, in respect of the narrative in the Report, Telecom considers that the Report is unbalanced in that allegations against Telecom by many parties, many of which are defamatory and still unsubstantiated, are simply repeated without providing adequately for Telecom's response to these allegations. By repeating these allegations, Austel cloaks them with credibility.

We ask you that - see 12 2.21

Must be able to be addressed immediately

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In addition, I spent some four hours with Mr MacMahon yesterday going through in detail Telecom's comments and concerns on the narrative of the Report. In general, Telecom considers that Austel's selective use of technical information in the Report has the potential to mislead readers and, in a number of cases, the conclusions drawn from the material presented are unsound and unsubstantiated by the evidence. Telecom is also concerned that in the more general areas the information presented demonstrates an unacceptable bias against Telecom.

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In our discussion yesterday, Mr MacMahon offered me the opportunity to provide responses to a number of these allegations and I have agreed to do so. I will provide these responses by Monday 11 April 1994.

assent and all

Telecom also considers that two additional issues for which Austel has a primary responsibility, should be specifically included in the Recommendations. The two matters are firstly, the need for Austel and the carriers to agree a definition of a satisfactory standard of service against which future performance can be measured, and secondly, the requirement for Austel to move promptly to set limitations on carriers' liability under section 121 of the Telecommunications Act 1991. The latter matter has now become urgent. Recent media coverage has heightened the public awareness of the availability of compensatory payments for business losses without reference to the normal limitations of liability which are provided to telecommunications carriers worldwide. In addition, customer response to the recent damage to Telecom plant in Melbourne and Hobart has demonstrated the need for stability in this area.

Agree

We acknowledge but not a matter for records

Key Issues of Major Concern to Telecom

There are five key issues of major concern to Telecom. Each is dealt with in turn below.

See paras 28-39

his own letter comments

1. The allegation that the Chairman of Telecom misled the then Minister for Communications, Mr David Beddall. This allegation is supposedly supported by Austel by quotations from letters from Telecom and Austel. Telecom has not previously been given the opportunity to comment on this allegation. 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.

No! Wa say does not convey the true nature and content of the problem.

2. The allegation that Mr Ian Campbell misled the Senate and that Telecom misled other Parliamentarians. From our review of the Report, there is no evidence offered to support the allegation that Mr Campbell misled the Senate, and from my personal knowledge of the comments of at least one of the Senators briefed at these sessions, Telecom considers that this allegation is completely unfounded. I understand from Mr Campbell that you have indicated that this allegation is to be withdrawn. Would you please confirm this in writing. The allegation that Mr Wright was misled by the information that was given to him by Telecom has also been included in the Report apparently without investigation. Telecom is concerned that you do not appear to have consulted Mr Wright on his views on this matter. Telecom's view is that this allegation must be removed from the Report.

Will do so
Not necessary documents speak for themselves

3. The allegation originally made by Mrs Garms that Telecom misled the Australian Federal Police in an earlier investigation of allegations in respect of her telephone service, which is repeated in the Report by Austel in an authoritative way. Telecom considers that the presentation of this matter in the Report is misleading and defamatory. It is my understanding that Austel has made no inquiries of the Australian Federal Police in respect of this matter.

Not necessary documents agreed.

Mrs Garms' original allegations were investigated by the Australian Federal Police and they found no evidence to support her claims. Mrs Garms was unsatisfied with their findings and made allegations of corruption directly against the Australian Federal Police.

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This means the point that we have a summary of a briefing and the briefing is wrong

When Mrs Garms repeated her allegation to Telecom on 27 February 1994, Telecom referred the allegation to the Australian Federal Police for their information and review. Whilst Telecom has not received a formal response from the Australian Federal Police, it is my understanding from oral comments that they have considered the allegation and the impact of Mrs Garms' statements on the original findings, and do not consider that the matter needs to be reviewed further. Under these circumstances, Telecom considers that the allegations repeated in the Report are unwarranted and must be withdrawn. Opportunity should be given to the Australian Federal Police to comment on this material before it is published.

Let us check with the AFP if correct we might note

- 4. The Report, when commenting on the number of customers with COT-type problems, refers to a research study undertaken by Telecom at Austel's request. The Report extrapolates from those results and infers that the number of customers so affected could be as high as 120 000. Telecom is of the view that this statement is patently flawed and is not supported by the outcomes of the study and the subsequent follow up interviews and evaluated material which has been provided to Austel.

This has been deleted (2.68)

In view of the high media profile that this Report is likely to generate, and Austel's failure to limit carrier liability under Section 121 of the Telecommunications Act, it is considered by Telecom that the inclusion of this reference is unnecessary, inflammatory and must be deleted.

- 5. Paragraph 6.106 of the Report uses the word 'cover-up' to describe the attitude of Telecom staff in relation to COT matters. Telecom considers that the use of this term is defamatory, inflammatory and inappropriate and requests that it be replaced by the word 'defensive'.

I would be prepared to accept this.

Comments on Other Issues

As Telecom has spent some four hours briefing Mr MacMahon on the detailed comment, it is not proposed to deal with those detailed matters in this letter.

However, it is appropriate to raise the issue of Austel's interpretation of the Bell Canada International consultant's report. It is Telecom's view that the comments purporting to be derived from the information in this report and the statements made that the Bell Canada International report supports the COT allegations are not soundly based. Opportunity should be given for Bell Canada International to comment on this material before it is published.

We do not say that the overall to us - see 1.53 and 11.26 11.27 11.28 11.29 11.30 11.31 11.32.

Yours sincerely,

Steve Black
Steve Black
GROUP GENERAL MANAGER
CUSTOMER AFFAIRS

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Copies: TUCKWELL
CAMPBELL
MATHURSON
DAVEY
Original: Mac NATION

Commercial & Consumer

37th Floor
242 Exhibition Street
Melbourne Vic 3000

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

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9 April 1994

Mr Robin Davey
Austel
By Facsimile: 828 7394

led 10/4/94

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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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 Ganns' 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.

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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 Ganns' 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 Ganns' 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 Ganns 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 Ganns 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 Ganns' 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 Ganns 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 Ganns' authority or the responsibility to disassemble the equipment for testing and repair. Therefore the two statements are consistent.

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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.

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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 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

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**TELECOM'S TEST CALLING INTO CAPE BRIDGEWATER AXE/RCM
EQUIPMENT**

Cape Bridgewater Holiday Camp: 28 October 1993 to 8 November 1993
inclusive

Test No (055) 267 211
Business hours 0800-2200

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	24 hour calling		Business hours calling	
	Sample	% of calls	Sample	% of calls
Total calls	1030		390	
Effective calls	1023	99.32	387	99.23
Total failed calls, as below	7	0.68	3	0.77
Congestion	2	0.19	1	0.26
Communications error	1	0.10	1	0.26
RVA/Wrong number	0	0.00	0	0.00
No answer	0	0.00	0	0.00
Couldn't break dial tone	1	0.10	0	0.00
System error	3	0.29	1	0.26

TELECOM'S TEST CALLING INTO DIXONS CREEK AXE EXCHANGE
Lovey's Restaurant: 21 October 1993 to 8 November 1993 inclusive

Test Nos (059) 652 414 and (059) 652 415
Business hours 0800-2200

	24 hour calling		Business hours calling	
	Sample	% of calls	Sample	% of calls
Total calls	1279		556	
Effective calls	1269	99.22	552	99.28
Total failed calls, as below	10	0.78	4	0.72
Congestion	5	0.39	3	0.54
Communications error	1	0.08	1	0.18
RVA/Wrong number	0	0.00	0	0.00
No answer	0	0.00	0	0.00
Couldn't break dial tone	4	0.31	0	0.00
System error	0	0.00	0	0.00

AS 822

Internal Memo



To Mr A Humrich

Network Operations
Networks & Interconnect

From David Shepherd
Manager

7/30 Pirie Street
ADELAIDE SA 5000
GPO Box 2426 SA 5001
Australia

Subject Test Call Program

Telephone 08 230 6306
Facsimile 08 410 4038

Date 15 November 1993

K34976

File

Attention

In response to the letter from Mr J MacMahon's letter to Don Pinel of 11 November 1993 on the issue of the hours over which the COT test call program was conducted the following explanation and comments are given.

1. The definition of what was meant by Business Hours in the Austel direction was not specified and it was assumed that the test call patterns would be left to the discretion of Telecom depending on the situation applying to the particular customer and local area. Many of the COT customers have businesses which operate over extended hours and are connected to exchanges in which the major busy periods occur in the evening and weekend. In this context Business Hours could be interpreted in a number of ways:
 - CBD business hours (9am - 5pm, Monday - Friday)
 - the hours over which the COT customer concerned conducted business (which in most cases would include evenings and much of the weekend)
 - the major traffic periods of the exchanges to which the nominated customers were connected (this would also cover the hours of 9am to 10pm 7 days per week)The interpretation applied by the testing staff was to ensure a substantial proportion of calls were generated in the major traffic periods of the exchanges concerned.
2. In the case of NEAT testing calls also had to be generated in low traffic periods in order to achieve an adequate sample size in the time available. The target sample size was set at 1000 calls.
3. The NEAT testing program was designed to broadly simulate the patterns of calls which might apply to the customer concerned and included interstate, intrastate STD and local calls. It took some time and effort to allocate the test number, install NEAT Terminating Units and design the test program before testing could commence. The exchanges tested by TRT or AET were small rural exchanges which have only one trunk access from the network and call dispersion is therefore less significant.

AS 823


The NEAT testing system allows analysis of results in specified time frames. On the basis of the Business Hour definitions for the exchanges tested an analysis has been done as sought by Mr MacMahon and the results are as follows.

Exchange	Business Hours	BH Calls	% of Total Calls	BH Network Loss
Valley Exchange	Mon-Sun 9a-10p	1114	42	0.52%
North Melbourne	Mon- Fri 9a-5p	384	15	2.1%
Maidstone	Mon-Fri 9a-5p	412	28	2.9%
Rockbank	Mon-Fri 9a-10p	386	28	0%
Dixons Creek	Mon-Sun 9a-5p	556	43	0.72%
Cape Bridgewater	Mon-Sun 9a-10p	390	38	0.51%
Woodend	Mon-Sun 9a-10p	1155	55	0.6%

The TRT/AET tested exchanges were small rural locations with night time and weekend busy periods. The percentage of calls generated in the busy period is estimated at 50%. Congestion was not major factor in either final result and the hours of testing would not have significantly affected the outcome.

These results show that performance in the business hours was comparable to that measured over the full period of testing. Congestion was significant contributor to overall loss only in the case of North Melbourne and Maidstone.

The testing program was a genuine effort to test the quality of service provided into the exchanges concerned and there has been no attempt to circumvent the directions of Austel or to obscure any service affecting conditions which might exist.


David Shepherd
Manager
Networks & Interconnect

K34977

94/269

26 February 1996

BRUCE MATTHEWS

cc Peter Gilmartin
Elle Calero

CHARGING DISCREPANCIES RAISED BY ALAN SMITH

The following is a guide to documentation provided by Alan Smith on 19 December 1995, in support of his claim of massive incorrect charging on his 008/1800 account.

2. I understand that you have commenced examining the documentation provided. The following information is intended to assist you in assessing the validity of Mr Smith's claims, as it identifies the documents Mr Smith regards as specifically supporting his assertions.

3. It should be noted that AUSTEL has advised Mr Smith that it is investigating the charging discrepancies he has raised to ascertain their potential systemic nature. It has been stressed to Mr Smith that this investigation is being undertaken in the context of AUSTEL's ongoing work resulting from its 1992 Inquiry into Standards for Call Charging and Billing Systems, and is not related to his arbitration.

4. Mr Smith identified 27 examples of charging discrepancies which he regarded as specifically supporting his claims. These examples have been marked and referenced accordingly in the documentation he provided. In summary, Mr Smith claimed that -

- 008 account and CCAS records for the period 4/7/93 to 6/7/93 showed charging discrepancies (Example 1);
- his 008 account showed longer calls than apparent in CCAS records specifically on 20/5/93 (Example 2);
- a Telstra 008 billing record and CCAS records for calls on 14/4/94 showed charging discrepancies (Example 3);
- a Telstra 008 billing record, CCAS records and a 008 account showed charging discrepancies on 26/4/94 (Example 4);
- various discrepancies were apparent as a result of test calls made to his service by Telstra from Ballarat. See Example 23. (Example 5);

AS

824

- a Telstra 008 billing record showed calls made on 24/5/94 were of a longer duration than apparent on CCAS records for the same day (Example 6);
- a CCAS record for 29/5/94 showed a discrepancy in the number of calls made when compared with his 008 account for the same day (Example 7);
- a CCAS record for 31/5/94 showed a discrepancy in the duration of calls when compared with his 008 account for the same day (Example 8);
- a CCAS record for 24/5/94 showed a discrepancy in the duration of a call when compared with his 008 account for the same day (Example 9);
- a CCAS record for 3/6/94 showed a discrepancy in the duration of a call when compared with his 008 account for the same day (Example 10);
- his 008 account for 12/4/94 showed a call which did not appear on a CCAS record for the same day (Example 11);
- a CCAS record for 16/4/94 showed a discrepancy in the duration of calls when compared with his 008 account for the same day (Example 12);
- a CCAS record for 18/4/94 showed a discrepancy in the duration of calls when compared with his 008 account for the same day (Example 13);
- a CCAS record for 1/6/94 showed a discrepancy in the duration of calls when compared with his 008 account for the same day (Example 14);
- CCAS records of his outgoing calls showed unusually long 'wait times' (Example 15);
- Telstra call event data for July 1994 was in some instances inconsistent with his 008 account for that period (Example 16);
- the duration of calls listed on his 008 accounts for the second half of 1993 were often inconsistent with CCAS records for the same period (Example 17);
- records of CCAS monitoring undertaken for other customers connected to the Cape Bridgewater exchange demonstrated that other customers in the Portland area had raised charging discrepancies with Telstra (Example 18);
- hand written notes by a Telstra 1100 operator indicated that a caller received a "dead line" when calling Mr Smith's 008 number, however Mr Smith's account shows that he was charged for this call (Example 19);
- Telstra records show that Amanda Davis was charged for two calls to Mr Smith which CCAS records show Mr Smith did not receive (Example 20);
- Cheryl Haddock received a recorded message when calling Mr Smith's 008 number, however his 008 account showed short duration calls from her number for the corresponding period (Example 21);

AS 824

- a call made on 13 January at 11.57 am listed on his 008 account could not have occurred because the previous call commenced at 11.50 am and was 9 minutes and 49 seconds in duration (Example 22);
- documentation shows notes made by Telstra which indicate that test calls made to his 008 number were unsuccessful, however these calls appeared on Mr Smith's 008 account (Example 23);
- analysis done by George Close and Associates identifies faults associated with outgoing and incoming calls on Mr Smith's Goldphone service (Example 24);
- notes made by Telstra on outgoing and incoming call event records show discrepancies and faults associated with Mr Smith's service (Example 25);
- his 008 account and call event records for a corresponding period showed charging discrepancies (Example 26); and
- a billing record for his service was inconsistent with outgoing call event records for the service (Example 27).

5. Mr Smith wrote to me on 20, 22 and 27 December 1995 outlining details of other charging discrepancies. These letters are on file 94/269. I also spoke with Mr Smith on 20 February 1996 about charging discrepancies associated with his Goldphone service. Mr Smith requested that AUSTEL investigate these matters along with the alleged discrepancies associated with his 008 service. I confirmed with Mr Smith that his preference was that the charging discrepancies associated with his Goldphone service be investigated first.

6. I am happy to discuss any aspects of the above with you.



Darren Kearney
Senior Policy Analyst
Consumer Liaison

175 824

PORTLAND OBSERVER

MONDAY July 12

Network complaints taken up by MIA

Problems highlighted by Cape Bridgewater Holiday Camp operator, Alvy Smith, with the Telecom network have been picked up on Federal politicians.

Having suffered a faulty telephone service for some time, Mr Smith's complaints had for people are standing up and listening. Federal Member for Wannan, David Hawker described the number of reports of faulty and inadequate telephone service as "alarming".

Mr Hawker said that during the recent people had been experiencing problems with their telephones. He said that even before the problems were caused to people by Telecom's technical failures, he had been following up several complaints.

Mr Smith said that during the recent people had been experiencing problems with their telephones. He said that even before the problems were caused to people by Telecom's technical failures, he had been following up several complaints.

CAPE-BRIDGEGWATER

055 267230 16:19 12-07-83

Mr Smith's complaints had for people are standing up and listening. Federal Member for Wannan, David Hawker described the number of reports of faulty and inadequate telephone service as "alarming".

AS 825

FAX FROM: ALAN SMITH

*Cape Bridgewater
Holiday Camp*

Portland 3305

FAX NO: 055 267 230

PHONE NO: 008 816 522

**FAX TO: MR CLIFF MATHIESON
AUSTEL
QUEENS RD
MELBOURNE**

DATE: 3.1.97

NUMBER OF PAGES (including this page)

If you have received this document in error, please phone us on 008 816 522.

Dear Mr Mathieson,

In your letter of 20 December 1996 you quoted from a previous letter of 12 July 1995, where you stated:

"AUSTEL will not enter into discussion on issues related to your telephone service which pre-date the finalisation of your arbitration procedure, as you were provided with the opportunity to raise these issues in the confidential AUSTEL-facilitated Fast Track Arbitration Procedure."

You then continue:

"As you are aware, your FTAP was a confidential procedure and AUSTEL was not a party to issues raised in this procedure."

I would like to remind you however of a meeting which occurred before the Austel COT Report was released when I had a discussion with you and John McMahon, General Manager, Consumer Affairs, Austel, at your offices. At this meeting I was asked to continue to report any faults that were still occurring on my phone services, particularly my 1800 Freecall service, since I had previously provided Austel with considerable information in support of incorrect charging to the Freecall number (as well as my other numbers).

Three particular incidents need to be noted here:

INCIDENT NO. 1.

On 22 April 1994, one day after I had signed the Fast Track Arbitration Procedure (FTAP), Mr McMahon asked me to forward to him copies of three of the accounts for my 1800 number which showed a variety of incorrectly charged calls. I faxed these three itemised accounts through to Austel but I was told that only blank paper arrived at your end. Austel's fax journal, however, indicates that blank paper would not register the time frame as it appears on the print-out, ie 1 minute 40 secs; 2 mins 13 secs; 2.22 (all from my fax line 267 230).

At Mr McMahon's request I continued to record this incorrect charging information for Austel.

AS 826

page 1

I had also told Mr McMahon that, even while I was in the process of signing the FTAP, two faults were being recorded in the office at Cape Bridgewater by my friend who was minding the business for me while I was in Melbourne.

Not only did Austel ask me to monitor the faults I experienced on my service but I was also asked to record the faults experienced by people attempting to contact my business. During the Arbitration, in response to my correspondence to Austel (6 October 1994), Mr Bruce Matthews of Austel wrote to the Arbitrator, Dr Hughes (8 December 1994) and outlined Austel's concerns about my complaints regarding the way Telstra had not addressed these continuing phone faults and noting that these phone faults continued to be very apparent at that time.

Austel even wrote to Telstra twice between October and December 1994, again confirming their concerns that these faults on my phone service were not being addressed.

As we all now know, even though Telstra stated, in a letter to Mr Bruce Matthews, that they would address these continuing faults (ie incorrectly charged calls; short duration calls and RVA faults) in their Defence of my claims, that did not happen because the Arbitrator conspired with Telstra to have these faults ignored.

It is interesting to note that, during August 1994, other parties also contacted Austel (at my request) with complaints. These included a Mr Boulter who operated the Melaleuca Motel in Portland and who also complained of incorrect charging faults.

INCIDENT NO. 2.

Then, on 26 April 1994 (five days after I had signed the FTAP) I contacted you in person regarding further faults on my service line 055 267 230. These faults included reports from Cape Bridgewater Holiday Camp patrons and personal friends who had alerted me to the fact that they could hear me talking in my office, after I had disconnected from their phone call (ie after I had replaced the receiver in the cradle of the TF200 phone in my office). When I reported this to you, as God is my judge, you asked me to re-dial you at Austel. Both these calls appear on CCAS data. You then asked me to return the receiver to the cradle and count aloud, up to ten. Low and behold! You stated that you could hear me and asked me to repeat the test, this time for fifteen seconds plus. Once more, you could hear me.

At your suggestion I unplugged the phone from my 055 267 267 incoming line and replaced it with the other TF200 phone. We then repeated these same tests, with the same results: you could still hear me counting even when the receiver had been replaced in the cradle of the second telephone. At this point you stated that the fault was not in the TF200 phone but that it was a network fault.

In his Award, the Arbitrator (Dr Hughes) even got this information wrong. He stated that there were ten lines connected to this old RAX exchange. In fact, he got it wrong twice, thereby devaluing my claim as follows:

$$\text{Grade of Service } 1.5\% = 4.81 - 3.4 = \frac{1.41}{3.4} = 41\%$$

*Eight lines will carry only 3.4 Erl and ten lines will carry 4.81 Erl.
ie ten lines will carry 41% more traffic.*

The Communications Regulator of any western country that treasures freedom of speech and democracy (other than Australia apparently) would move to rectify the situation immediately he/she had been notified that their own report (the Austel COT Report, which had been used as evidence in a court proceedings) had later been proven to be flawed and to include incorrect information. Not Australia though. Here, Telstra rides rough shod over their customers as well as the Government.

How can Austel talk about not entering into "... discussion on issues related to your telephone service which pre-date the finalisation of your arbitration procedure ..." when, AFTER the Award was handed down (11 My 1995), Austel visited my business at Cape Bridgewater (a five hour drive from Melbourne) to view seven bound volumes of evidence which supported the allegations of incorrectly charged calls, short duration calls and RVA faults. This was the evidence which I had already supplied to the Arbitrator during the FTAP but which he did not then pass on to DMR & Lanea, the Technical Advisors to the FTAP.

Obviously Dr Hughes had a deal with Telstra since none of these 646 or more incorrectly charged calls (over a fourteen month period) appears anywhere in any written document from the FTAP. In other words, none of these proven call faults were listed in the Arbitrator's award as being found against Telstra. This has been a massive conspiracy not to document these incorrectly charged calls.

Right through the Fast Track Settlement Proposal (FTSP) and the FTAP, Austel asked me to keep them informed regarding my phone complaints: your own records show that this was actually the case and there is other evidence which I have not referred to in this letter which also supports my allegations of faults which continued up to August 1994 (during the Arbitration). How can you now drop me as if I have the plague when it is apparent that Telstra lied in correspondence to Austel on 11 November 1994? In this letter to Austel they stated that they would address the three faults mentioned above in their Defence but it can clearly be seen now that they DID NOT ADDRESS THESE FAULTS.

On this same day (26 April 1994) I rang Peter Gamble, Telstra engineer, and carried out the same test but only using one phone. Obviously I did not notify Mr Gamble that you and I had tested two different phones in this way.

FOI Document K00940, received six months later, shows that, while he was speaking to me, Mr Gamble noted (without ever having seen the phone) that the fault was created by 'heat' in the RCM Exchange at Cape Bridgewater and yet, when Telstra presented their defence they leaned heavily on a report about my fax line TF200 Touchphone which had been taken away by Telstra two days after the 26 April 1994, for testing. This report stated that 'beer' in the phone had caused the fault and that the inside of the phone was still 'wet and sticky to the touch' on 12 May 1994.

How could Mr Gamble have known, unless some investigation had already been carried out, that 'heat' was causing the problem? Telstra's own CCAS data however, like your own assessment of the situation, proves that the fault was Network related since the CCAS data records show that the fault was in existence in the Network seven months BEFORE the phone was taken away for testing. What is more, other CCAS data records show that the fault was STILL in existence five weeks AFTER the phone was taken for testing.

INCIDENT NO. 3.

Austel advised the four members of COT that discovery documents would be supplied to them by Telecom under FOI, if we signed the FTSP. As a result of Telecom's defective administration of the supply of these discovery documents, my technical advisor based his report on what little information we had been able to acquire, including the Austel COT Report which we believed would contain correct information. We were wrong. The Austel COT Report has the original exchange at Cape Bridgewater as an ARK which is a more modern exchange than the RAX which was actually in use for the first three and a half years after I took over. My technical advisor and I did not uncover the information about the RAX exchange until after I had submitted my letter of claim.

As I have already advised you, this old RAX exchange was designed in the early 1950s and was old and outdated technology, intended for low call rate areas only. It had only 8 final selectors and when I moved to Cape Bridgewater this exchange was servicing some 120 or more residents. Since there were only these 8 final selectors this meant that, for example, if four Cape Bridgewater residents were ringing out of the area at any one time, then only four calls could be connected in to the area at the same time for the other 116 people.

You may not agree with my use of the following terminology which I believe describes the feelings of the COT four - how can you? You have not experienced lies and cover-ups perpetrated by people you once trusted. The COT four have been treated like 'harlots' or 'ladies of the night' except that 'harlots' and 'ladies of the night' are paid for their services after they have been used and before they are discarded as trash.

Sincerely,



Alan Smith

copies to:

The Hon John Howard

Prime Minister, Parliament House, Canberra

Senator Richard Alston

Minister for Communications and the Arts, Canberra

Mr John Wynack

Commonwealth Ombudsman's Office, Canberra

Mr John Pincock

Telecommunications Industry Ombudsman, Melbourne.

FILE NOTE

5.35pm

K00932

Alan Smith - Cape Bridgewater

Rang Alan Smith in response to message from Bruce Pendlebury. Alan was concerned about the outcome of an investigation into a fault condition on his telephone service 267230 whereby after initiating a call, and then hanging up, the called party was still connected. Thus when the handset was picked up again the called party was still there. This would last for up to 10-12 seconds.

Alan had discussed this problem with Cliff Matheson from AUSTEL and Peter Gambic from the Customer Response Unit.

Local technician, Ross Anderson, visited Alan's premises to investigate the situation. According to Alan, he was there for over an hour and a half, however Alan believes during this time, Ross returned to the Depot in Portland and returned again. Alan, could not be sure of this as he in fact went into Portland after Ross arrived, and when he returned, Ross was still in attendance.

Ross apparently replaced the handset, but according to Alan told Alan "there was no problem with the phone". Alan advises that the service has worked correctly since Ross visited the premises.

Alan's concern is, what was the problem. Was the phone faulty, or was it a network problem?

I advised him I would give him the fault details of the fault and the rectification procedure.

Alan went on to complain about sending faxes to Austel, 3 separate faxes, that Austel claim they did not receive, but in fact received blank papers. According to Alan, Austel's fax log recorded received of the three faxes.

Alan is concerned as to what happened in this case, and went on to say that he had had previous trouble in both sending and receiving faxes. That is, messages had not been received when he sent them or he had not received messages sent from other areas.

Mark Ross

AS 827



AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

92/596 (6)

7 September 1993

Mr Jim Holmes
Corporate Secretary
Telstra Corporation Ltd

Fax 632 3215

Dear Mr Holmes

COT CASES MONITORING ARRANGEMENTS

Your "two bob each way" letter of 31 August 1993 outlining how Telecom is to monitor the COT Cases' services in response to AUSTEL's direction of 12 August does little to inspire confidence in Telecom's approach to the issue.

The offer to provide in two weeks hence a "... critique of the technical aspects of ... [the] ... direction, including the test call program specified" might be interpreted as nothing more than an attempt to lay a foundation for disowning the tests if they appear to support the COT Cases. Why when we first asked for the tests over two months ago (MacMahon's letter to Hambleton of 30 June 1993), does it take another two weeks to come up with a critique of the monitoring proposals? This is the very lack of the pro-active co-operative attitude which prompted the direction of 12 August 1993.

I have similar concerns about you seeking AUSTEL's approval of the monitoring equipment so long after we first asked tests to be done. There are concerns by some of the customers Telecom is to monitor about the effectiveness of the monitoring equipment. These concerns have been inspired, at least in part, by comments made by Telecom employees to those customers and, of course, the problem experienced by Mr Smith when testing/monitoring equipment caused additional problems for him. The advantage of having independent endorsement of the equipment prior to its installation and the production of test data seems obvious to me. Instead, we are still liaising to obtain details of the specification and capability of the equipment to be deployed after its installation in four of the cases and within days of the proposed installation in the other cases.

It is clearly in the interests of all concerned to ensure that the monitoring pursuant to AUSTEL'S direction is conducted in the most timely and efficient manner. Please liaise with Mr Cliff Mathieson, AUSTEL's Specialist Advisor - Networks, (03 828 7389) re approval of the monitoring equipment.

5 QUEENS ROAD, MELBOURNE, VICTORIA
POSTAL: P.O. BOX 7443, ST KILDA RD, MELBOURNE, VICTORIA, 3004
TELEPHONE: (03) 828 7300 FACSIMILE: (03) 820 3021

AS 828

R10690

Draft conditions for installation of equipment

The draft list of conditions for installation of monitoring equipment in the customers' premises only serve to reinforce my view that your letter is an attempt to have "two bob each way" - if the testing does not favour Telecom, you have laid a foundation for claiming that it is due to customer interference. I have already conveyed to you my concern that Telecom is unable to come up with tamper proof monitoring equipment for installation on the customers' premises.

Subject to you removing the endorsement "Telecom in confidence" on the top of the draft conditions, I am prepared to have them conveyed to the customers. I should, however, point out that they reflect little credit on Telecom if its intention were to produce a document that endeavours to provide the customers with any explanation or reasoning for the conditions.

Technical complexities

We look forward to receiving the technical and operational submission foreshadowed in your letter. The timing of about three weeks would seem appropriate. A decision whether, as suggested in your letter, it is desirable to engage an independent technical expert will be taken after receipt of your submission. If that is necessary, AUSTEL would be looking to Telecom to meet the costs involved.

Access to file and documents

While I understand that the arrangements for file examination are proving adequate, there was an agreement to list all files by 19 August and I understand that only some 60 files have been identified to AUSTEL to date. Please provide a comprehensive listing by the end of this week (10 September 1993).

Is it possible to provide parking for AUSTEL's officers who are attending Telecom's premises to inspect the files? This would result in a significant cost saving to AUSTEL's personnel who currently have to make use of commercial parking.

Yours sincerely


Robin C. Davey
Chairman

828

R10691

HON MICHAEL LEE
MINISTER FOR COMMUNICATION + THE ARTS.

Dear Sir,

I am writing to express my concern at the health problems being experienced by members of Casualties of Telecom (C.O.T.)

As you are no doubt aware the Arbitration Procedure (which I cannot discuss due to confidentiality reasons) has dragged on for over 18 months.

Due to the constant delays in regard to Freedom of Information (FOI) requests (reasons currently under review by John Wynack, the Commonwealth Ombudsman) extra pressures due to stress and escalating costs in putting the claim together have taken their toll.

Currently many members of COT are suffering major health problems - one member a heart attack followed by surgery, one stroke victim, one husband now an agoraphobic, another on the verge of a nervous breakdown also with suspected cardio-vascular problems - and whole families are suffering as a result.

Alan Smith, from the Cape Bridgewater Holiday Camp (with whom I have a relationship) actually collapsed at his business while a school group was at the premises on Wednesday 17th May 1995. As he was showing all the signs of a heart attack I had to call an ambulance (another



AS 829

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(expense). After 3 days in hospital and exhaustive tests, doctors diagnosed angina brought on by severe stress and to reduce the risk of heart attack Alan is now on medication (more expenses).

I find it very hard to accept that the man I first met on a professional basis early in 1992 - a fun, caring, confident, happy person in spite of his problems - is now a shadow of his former self. He is exhausted, irritable, has trouble socializing, is withdrawn and if put under any pressure becomes breathless and suffers heart palpitations. He is currently unable to run his business.

The merit of the man reveals a person who was the founding member of COT. A person who has worked hard to prove that he did have a phone problem detrimental to his business. Over the past 3 years he has single handedly managed to keep his business operating as well as put a claim together to prove his allegations were correct. Most people would have given up.

I moved to Portland in early 1993 to manage the Holiday Camp as Alan was finding it difficult to run the business and put in the 12-14 hours a day necessary to finalize his claim.

During this time I too have been under a lot of pressure trying to run business and support Alan both men

⊕

829

3

and physically while he has had to be totally focussed on the Arbitration Procedure while at the same time being pressured by creditors for outstanding accounts as well as watching the costs involved with the claim increase daily due to ongoing delays and late arrival of FOI.

Due to the costs involved in trying to hold this business together over the past few years and the HUGE costs involved in proving his claim, Alan now has to sell his business in order to survive even with the settlement awarded.

All families of COT members are trying to cope with similar situations and it is sad to see children being affected by living in stressful situations. Marriages and relationships are being stretched to the limit. Some have not survived, some may not survive.

It's time that some action is taken to alleviate the suffering.

What are you as Minister and the government you represent going to do before a COT member dies as a result of the stress associated with this process. I am sure that if that scenario occurred the media would have a field day.

Yours sincerely

C. Ezard.

CATHY EZARD.

829



4/

Copies of this letter also being sent to

Graham Schorer, Spokesperson Br COT

David Hawker MHR, Member Br Wannon

Letter written by

CATHY EZARD

CAPE BRIDGEWATER HOLIDAY CAMP

RMB 4408

PORTLAND 3303

Phone (055) 267 267



829

15/1/96

Facsimile Transmission

To: Mr Brett Bowden Date: 5 January 1996
 Our Ref: 2476.doc
 Company: National Business And Commercial Fax No: 696 9369
 From: Mr Alan Smith Total Pages (including Header):

MAILED: YES () NO (X)

PRIVACY AND CONFIDENTIALITY CLAUSE

The information in this facsimile is private, privileged and strictly confidential and intended only for use of the individual or entity named above. If you are not the intended recipient, please call by telephone the sender immediately upon receiving this facsimile as any dissemination, copying or use of the information is strictly prohibited.

Dear Mr Bowden,

Today I received advice that the purchasers of the Cape Bridgewater Holiday Camp do not intend to complete their financial obligation to effect the sale.

The purchasers solicitor's written notification substantiates that the purchase decision is in breach of the offer to purchase/sale agreement.

As I have appointed National to act as my agent, and National accepted as my agent \$50,000.00 deposit on the sale of the freehold and leasehold of the business known as Cape Bridgewater Holiday Camp, paid into National's trust account, I am officially advising you as my agent that I do not authorise you to return the \$50,000.00 deposit held in your trust account to the intending purchasers and/or their solicitor.

Should National decide to return part or all of the \$50,000.00 deposit held in National's trust account to Greg and Lyn Stahel or nominee or their solicitor without my written approval, National will be acting independently and against my best self interest and will be in breach of their duties towards me as my appointed agent.

I will keep you informed of what action I intend to take regarding this breach of sale after I have received advice from my solicitor.

Yours sincerely,

Alan Smith

AS 830

Commonwealth Bank
Commonwealth Bank of Australia

MORDIALLOC VIC

Pay National Business Commercial Trust Account

The sum of Forty Thousand dollars

**BALCOMBE ENGINEERING P/L
SUPERANNUATION TRUST FUND**

7/12/95

\$50,000.00

⑈000016⑈ 063-149⑈ 1004-2949⑈

national
BUSINESS AND COMMERCIAL

(03) 690 3322

Ground Floor, 24 Albert Road,
South Melbourne 3205

No. 0124

TRUST ACCOUNT

DUPLICATE

DATE 07/12/95

RECEIVED FROM

GREG STANER (Balcombe Engineering P/L)

THE SUM OF

Fifty Thousand Dollars

\$50,000.00

CHEQUE No.

CBA 00016 BANK CBA

BRANCH MORDIALLOC

PAID ON ACCOUNT OF

SALE OF FREEHOLD AND BUSINESS CAPE

BRIDGEWATER HOLIDAY CAMP CAPE BRIDGEWATER VIA
PORTLAND.

VENDOR

ALLAN SMITH

DEPOSIT

ADDRESS

CAPE BRIDGEWATER HOLIDAY CAMP

STAKEHOLD

OTHER DETAILS

ADVERTISING

CHEQUES 50,000

CASH \$

SIGNATURE

Bruce A. Bunde

830

TOTAL P.02

OFFER TO PURCHASE

THE PURCHASER:

Greg and Lyn Stachel or nominee
86 Cook Street (PO Box 148)
FLINDERS 3929

HEREBY OFFERS TO PURCHASE FROM:

THE VENDOR:

Allen Smith
Cape Bridgewater Holiday Camp
Cape Bridgewater Via PORTLAND
(RMB 4408 Portland Vic)

FREEHOLD & BUSINESS:

Cape Bridgewater Holiday Camp
including Business Goodwill, Plant and Equipment
Cape Bridgewater Via PORTLAND

FOR THE PRICE OF:

THE PRICE:

\$270,000

INITIAL DEPOSIT:

\$50,000 ON SIGNING HEREOF

SETTLEMENT:

\$220,000 ON 01/06/96

OR EARLIER BY AGREEMENT

SUBJECT TO:

THE TERMS AND CONDITIONS AS SPECIFIED HEREWITH.

- Purchasers Solicitor approving final Contracts.
- Possession of the business to take place on the 10 February 1996.
- Split of Business and Freehold -

Freehold	\$200,000
Leasehold	\$70,000

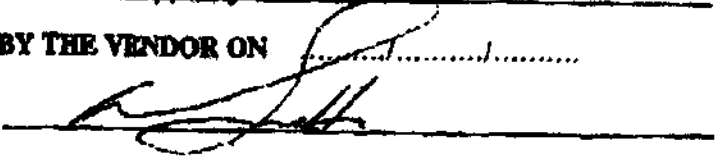
THIS OFFER IS MADE BY THE PURCHASER ON 07/12/95 AND WILL LAPSE AT MIDNIGHT ON 08/12/95 IF NOT ACCEPTED.

SIGNATURE/S OF PURCHASER



THIS OFFER IS ACCEPTED BY THE VENDOR ON

SIGNATURE/S OF VENDOR



07 5445 3198

L.



QYNCOM IT&T Business Consultants

QYNCOM Corporation Pty. Ltd.
A.C.N. 006 218 191
7 Irlbarra Road, Canterbury,
Victoria 3126, Australia

To: **John Wynack**
Company: **Commonwealth Ombudsman's Office**
Location: **1 Collins Street, Melbourne**
Fax Number: **02 62 49 78 29**
Subject: **Report on Plowman's Request for Information from Telstra**
Copy to: **Graham Schorer 9287 7001; John Armstrong 9632 0965**
Date: **12th March 1998**
Page 1 of: **14 pages**
From: **Dr David C. Wynn, Director**
Telephone: +61 3 98 36 67 96 Facsimile: +61 3 92 07 27 77 Mobile: +61 4 18 33 66
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Dear Mr Wynack,

The following report needs further work, but I am sure you will find it useful in its draft form.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Wynn'.

Dr David C Wynn
Director

AS 831



COMMENTS ON MR ROSS PLOWMAN'S REQUEST FOR INFORMATION

A. PREFACE

I will preface my comments by stating that my contract to act as Independent Technical Consultant to the Senate Working Party dates from January 1998. It is therefore very clear that my knowledge of the details of disputes which date back to 1985 is far from complete. Perhaps this may be viewed as an advantage, allowing me to take a "fresh look" at the circumstances.

~~The documentation in my possession~~ makes no reference to ~~complaints against Telstra~~. The exercise at hand is to analyse (I quote from Mr Wynack's letter to me of 2 March 1998):

- "...copies of requests made by Mr Plowman of Telstra for network information and
- "Telstra's responses to those requests." Also
- "....comments on Telstra's responses prepared by Mr Plowman, Mrs Garms and Mr Schorer."

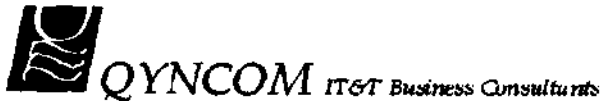
and to provide Mr Wynack with "comments on the extent to which Telstra's responses enable the Working Party to comply with Term of Reference 2.3".

For my benefit, the "Working Party Terms of Reference [Amended by the Senate Environment, Recreation, Communication and the Arts Legislation Secretariat following Legislation Committee Meeting]" Part 2, Paragraph 3 states:

Telstra must provide written advice, in respect of each Party, identifying the network or networks which were used by Telstra to service the business telephone service of that Party.

My literal interpretation of this Term of Reference is that Telstra must provide written advice identifying the network or networks used to service the business telephone service of Mr Ross Plowman, from the date on which he became a Telstra customer to the date on which he sold his business. The "network or networks" included all elements used to effect a connection from all of Mr Plowman's callers to his business telephone service. Thus Telstra's "network" comprises all transmission elements, all switching elements and all subscriber loops under the control of, and maintained by, Telstra. Furthermore, the PABX at the Bentinck supplied by and maintained by Telstra, was part of Telstra's network which serviced the business telephone service of Mr Plowman.

In my opinion, this Term of Reference is onerous for Telstra and is inappropriate in consideration of the spirit of the Working Party's investigations. As I have pointed out elsewhere in this report, the network should be confined to the immediate vicinity of Mr Plowman's business service. One definition of the serving network is



given below, just prior to the table. It should be noted that this definition has no regard for the location of the caller to Mr Plowman's business service.

Furthermore, the Term of Reference 2.3 does not require written advice from Telstra as to the performance of those "network or networks" or their adequacy in providing an acceptable level of service to Mr Plowman.

Thus, Telstra's responses which address Mr Plowman's requests for information and simultaneously comply with Term of Reference 2.3, are those which offer constructive advice in the response while confirming the relevance of the question. My general view is that Telstra has made a laudable attempt in its response of 13 February 1998 to focus on issues relevant to the "network or networks" providing service to Mr Plowman's business telephone service, without necessarily directly addressing the strict requirements of the Working Party's Term of Reference 2.3. Even when the "network or networks" are confined to a reasonable area, I believe that Telstra's compliance task is still onerous, considering the period of time, the range of documents sought, and the requirement for interpretation of raw data to establish their relevance.

Were Telstra to comply with a strictly literal interpretation of Term of Reference 2.3, modified to limit the network area to the "immediate vicinity of The Bentinck", it should provide a series of schematics showing the "network or networks" servicing Mr Plowman's business telephone service over the 10-year period in question. This dossier of schematics might run to hundreds, if not thousands, of snapshots of a living, dynamic and evolving network. For example, the addition of a circuit in an inter-exchange route, or the change of jumpers in a main distribution frame, or the modification of software in a stored programme controlled switch, would require the generation of a new schematic to record the alteration to the network. In my opinion, the relevance of the information in this hypothetical dossier in the pursuit of claims against Telstra would be questionable.

B. MR ROSS PLOWMAN'S REQUEST FOR INFORMATION

Mr Plowman opens his 11 December 1997 request for information by defining customer-specific areas of Telstra's telephone service, and by asserting that, apart from "a brief period" during which his PABX equipment was maintained by NEC, "the responsibility for performance lay virtually exclusively in Telstra's hands." This assertion has a direct bearing on the inclusion of the PABX in Telstra's "network or networks" used to service the business telephone service of Mr Plowman as stated in the previous paragraph.

Before looking at Mr Plowman's request for information in detail, I would like to make a number of general comments.

- I would expect that many of Mr Plowman's clients would want to telephone him in the course of doing business. The geographical location of the Bentinck would make a satisfactory telephone service an essential



ingredient in running a successful business. I imagine that he receives calls from a very wide area, but I note that his "catchment area" has been limited to the 03 Melbourne metropolitan zone.

- Granted that Telstra network faults may restrict calls to Mr Plowman from anywhere in Australia or overseas, but the likelihood of network faults affecting a significant number of callers to the Bentinck, will increase as faults occur closer to the Bentinck itself. Therefore, it is more realistic to limit the search for documents relating to faults in network elements in the vicinity of the Bentinck. Thus, an unqualified request for full details of work on the Customer Access Network 1985 - 1994 is a demand which is clearly impossible for Telstra to fulfil, even with the best will in the world. However, the request is not irrelevant. One could say it's analogous to requesting a thorough search of all the world's haystacks knowing there exists a valuable needle in one.
- It is understandable that the Claimants, lay persons in the field of telecommunications, might feel intimidated by industry jargon, Telstra acronyms, colloquialisms, and special interest group abbreviations. ~~They~~ attempt to counter this "veil of mystery", the Claimants have resorted to ~~using~~ expressions of their own making. The introduction of legal terms has added yet a further dimension. As a consequence, communication among all parties, over a significant period of time, has been belaboured.
- Furthermore, a sense of frustration is apparent in correspondence from both sides of the dispute. ~~The Claimants, at a natural disadvantage in a highly technical domain, have tended to broaden the interpretation of words whose meanings are normally specific, have tended to lengthen periods of time to capture groups of discrete events, and have expanded geographic boundaries well beyond the immediate vicinity of their telephone services — generally broadening the scope of investigations by~~ ~~means of~~ ~~investigation~~. On the one hand, by defocusing the search for information, the Claimants would hope to have created a catch-all environment to ensnare all interpretations of their requirements. On the other hand, Telstra is faced with the daunting task of interpreting generalities, translating lay requests into specific technical tasks, and expending considerable man-hours complying with a stream of unfocused demands.

The addendum to Mr Plowman's November 1997 request for information is a document with covering letter, dated 10 December 1997, signed by Mr Graham Schorer. This addendum contains 81 questions about Telstra's network performance. For Mr Plowman's request to Telstra for information to be reasonable, relevant and potentially meaningful, it is my opinion that the Telstra documents sought by Mr Plowman should belong to the following categories:



1. They must relate to Telstra's network directly offering service to Mr Plowman. I would limit the range of attention to:
 - 1.1 Mr Plowman's customer premise equipment;
 - 1.2 The customer access network between Mr Plowman's premises and the local telephone exchange;
 - 1.3 The inter-exchange network between Mr Plowman's local exchange and the adjacent switches offering service to that exchange;
 - 1.4 The next level of network switching.
2. Documents must relate to faults in Telstra's network offering service to Mr Plowman. Whereas, for 99% of the time, congestion must be regarded as a fault; the number of circuits in a route is, in the absence of peak traffic data, an irrelevance.
3. Documents must have been generated, by Telstra employees, during the dates nominated, and have been current at the time.
4. Documents must be specific about the "problems and faults" experienced by Mr Plowman during the dates nominated.

Now, if one were to filter Mr Plowman's requests for information against the criteria listed above, using Mr Plowman's paragraph numbering, one could award each clause the category of "pass" or "fail":

Paragraph Number	Pass or Fail	Comments
1.1(a)	Fail	The number of circuits, per se, is irrelevant
1.1(b)	Fail	The number of circuits, per se, is irrelevant
1.1(c)	Fail	The number of circuits, per se, is irrelevant
1.2(a)	Pass	Within the time period
1.2(b)	Pass	Within the time period
1.2(c)	Pass	Within the time period
1.2(d)	Pass	Within the time period
1.3(a)	Fail	The request does not relate to network faults.
1.3(b)	Fail	The request does not relate to network faults
1.3(c)	Fail	The number of circuits, per se, is irrelevant
1.4(a)	Pass *	Covered by paragraph 1.2(a)
1.4(b)	Pass *	Covered by paragraph 1.2(b)
1.4(c)	Pass *	Covered by paragraph 1.2(c)
1.4(d)	Pass *	Covered by paragraph 1.2(d)
1.5(a)	Fail	The request does not relate to network faults
1.5(b)	Fail	The request does not relate to network faults
1.5(c)	Fail	The number of circuits, per se, is irrelevant
1.6(a)	Pass *	Covered by paragraph 1.2(a)
1.6(b)	Pass *	Covered by paragraph 1.2(b)
1.6(c)	Pass *	Covered by paragraph 1.2(c)



1.6(d)	Pass *	Covered by paragraph 1.2(d)
1.7(a)	Fail	This is simply speculative
1.7(b)	Fail	This must be specific to Mr Plowman's service
1.8(a)	Fail	This is simply speculative
1.8(b)	Fail	This must be specific to Mr Plowman's service
1.9(a)	Fail	Speculative and not specific to Mr Plowman
1.9(b)	Fail	As in 1.9(a), this needs extensive re-wording
1.10(a)	Fail	Impossible to comply with — far too general
1.10(b)	Fail	Impossible to comply with — far too general
1.11(a)	Fail	This must be specific to Mr Plowman's service
1.11(b)	Fail	This must be specific to Mr Plowman's service
1.11(c)	Fail	This must be specific to Mr Plowman's service
1.11(d)	Pass ??	If specific to Mr Plowman within the time period
1.11(e)	Fail	This must be specific to Mr Plowman's service
1.12(a)	Fail	This must be specific to Mr Plowman's service
1.12(b)	Fail	This must be specific to Mr Plowman's service
1.12(c)	Fail	This must be specific to Mr Plowman's service
1.13(a)	Fail	Impossible to comply with — far too general
1.13(b)	Pass *	This question is better asked in Section 1.2
1.13(c)	Pass *	This question is better asked in Section 1.2
2.1(a)	Fail	The number of circuits, per se, is irrelevant
2.1(b)	Fail	The number of circuits, per se, is irrelevant
2.1(c)	Fail	The number of circuits, per se, is irrelevant
2.2(a)	Pass *	Covered by paragraph 1.2(a) in extended period
2.2(b)	Pass *	Covered by paragraph 1.2(b) in extended period
2.2(c)	Pass *	Covered by paragraph 1.2(c) in extended period
2.2(d)	Pass *	Covered by paragraph 1.2(d) in extended period
2.3(a)	Fail	The request does not relate to network faults
2.3(b)	Fail	The request does not relate to network faults
2.3(c)	Fail	The number of circuits, per se, is irrelevant
2.4(a)	Pass *	Covered by paragraph 1.2(a) in extended period
2.4(b)	Pass *	Covered by paragraph 1.2(b) in extended period
2.4(c)	Pass *	Covered by paragraph 1.2(c) in extended period
2.4(d)	Pass *	Covered by paragraph 1.2(d) in extended period
2.5(a)	Fail	The request does not relate to network faults
2.5(b)	Fail	The request does not relate to network faults
2.5(c)	Fail	The number of circuits, per se, is irrelevant
2.6(a)	Pass *	Covered by paragraph 1.2(a) in extended period
2.6(b)	Pass *	Covered by paragraph 1.2(b) in extended period
2.6(c)	Pass *	Covered by paragraph 1.2(c) in extended period
2.6(d)	Pass *	Covered by paragraph 1.2(d) in extended period
2.7(a)	Fail	Same question as 1.7(a) over extended period
2.7(b)	Fail	Same question as 1.7(b) over extended period
2.8(a)	Fail	This is simply speculative
2.8(b)	Fail	This must be specific to Mr Plowman's service
2.9(a)	Fail	Speculative and not specific to Mr Plowman
2.9(b)	Fail	As in 2.9(a), this needs extensive re-wording



2.10(a)	Fail	Impossible to comply with — far too general
2.10(b)	Fail	Impossible to comply with — far too general
2.11(a)	Fail	This must be specific to Mr Plowman's service
2.11(b)	Fail	This must be specific to Mr Plowman's service
2.11(c)	Fail	This must be specific to Mr Plowman's service
2.11(d)	Pass ??	If specific to Mr Plowman within extended period
2.11(e)	Pass ??	If specific to Mr Plowman within extended period
2.12(a)	Fail	This must be specific to Mr Plowman's service
2.12(b)	Fail	This must be specific to Mr Plowman's service
2.12(c)	Fail	This must be specific to Mr Plowman's service
2.12(d)	Fail	This must be specific to Mr Plowman's service
2.13(a)	Fail	Impossible to comply with — far too general
2.13(b)	Pass *	Question better phrased in 1.2 over revised period
2.13(c)	Pass *	Question better phrased in 1.2 over revised period

Summary:

In 81 questions, there are:

- 4 which pass the criteria — 5.0%
- 24 which have already been asked in a similar way — 29.6%
- 3 which would pass if re-worded slightly — 3.7%
- 50 which fail the criteria — 61.7%

Clearly, the use of these criteria has discarded 95% of the requests for documentation. Is this approach insensitive and unsubtle? Or could it be a prelude to asking Telstra employees to use their own prerogative and judgement to interpret the Claimants' requests for documentation relevant and appropriate to their claims?

C. TELSTRA'S RESPONSE, DATED 13 FEBRUARY 1998, TO MR ROSS PLOWMAN'S SUBMISSIONS

1. Firstly, Telstra points out that it has provided "a substantial volume of documentation" in response to Mr Plowman's requests in 1995. Secondly, Telstra has attempted to simplify its current task by compiling an "exception report" comprising documents which have not been provided. Thirdly, Telstra has included a disclaimer as to the existence and relevance of documents which have not been provided.
2. I would remind the reader that this report gives consideration to the contents of each letter in chronological order.
3. Paragraph A (1) — Full details of work on the Customer Access Network 1985 - 1994.

Telstra identifies Plowman's Service History as the source of data. This is reasonable. Given that the period is 10 years, that field staff are often less than



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meticulous in their record-keeping skills, and that Telstra has little reason to archive the vast volume of its records, it is understandable that little documentation remains. However, I would say that records relating to significant disputation should be retained and maintained.

4. Paragraph A (2) — Comments as per Paragraph A (1) above.
5. Paragraph B — Documents relating to the Melbourne trunk exchange and Gisborne exchange, for specific periods, have not been provided.

Telstra must be the arbiter as to the relevance of these two exchanges to Mr Plowman's business telephone service, as it must also be in determining what documentation is pertinent to Mr Plowman's claims. It seems reasonable that Telstra should provide documentation.

Telstra has said it would provide documents identified on 23 January 1998 in its list of "A" documents.

6. Paragraph B (1) — Exchange Performance Records — The request for Kyneton exchange records is reasonable.
7. Paragraph B (2) — EMG Fault Activity Reports — The request for Kyneton exchange records is reasonable.
8. Paragraph B (3) — Cell Leader's Reports — The request for Kyneton exchange records is reasonable.
9. Paragraph B (4) — Congestion and Switching Assessments — It is quite possible that the Service History for Mr Plowman's business telephone service has little data from TADMAR and TRAXE reports for relevant routes and exchanges. A considerable amount of work would be needed to correlate the data in TADMAR and TRAXE reports, not already provided, with Mr Plowman's business telephone service. Nevertheless, Telstra should provide these data. Similarly the CENTOC traffic data should be provided by Telstra.
10. Paragraph B (5) — Trunk Route Testing Reports (Between Kyneton, Gisborne and Melbourne) — The request for these records is reasonable.
11. Paragraph B (6) — Area Network Configurations — Telstra seems to have complied.
12. ~~Paragraph B (7)~~ — Staff Diary Notes — Compliance with this request is a very difficult matter. It must remain Telstra's prerogative to determine the relevance of staff diary notes.
13. Paragraph B (8) — National Network Reports — Telstra should provide these reports. Telstra also offers the raw data upon which the TROB summary is based.



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I would question the benefit of these data to Mr Plowman's case in view of the considerable skills required to interpret these data.

14. Paragraph B (9) — Area Field Group Reports — The request for Kyneton exchange records is reasonable.
15. Paragraph B (10) — Special Investigation and Network Administration Reports — The "A" documents would be valuable.
16. Paragraph B (11) — Service Assurance, Newry, Reports — I will allow myself to jump to 2 March 1998, when Mr Plowman pointed out the typographical error in this request. "Newry" should read "Network".

Telstra should provide service assurance reports.

17. Paragraph B (12) — Technical Publication "Crossbar Exchanges Maintenance of Relay Equipment Manual".

Telstra is willing to provide it and should do so. However, the information the manual is likely to contain will be of little relevance unless used in conjunction with exchange records indicating what maintenance was carried out and when.

18. Paragraph B (13) — Congested Routes, Files and Reports — I do not believe Telstra has addressed this query properly. Elsewhere Telstra has produced periodic Congestion Reports which are the result of the processing of raw data such as might be generated by TADMAR and/or TRAXE.

Telstra should provide CENTOC traffic data as offered.

19. Paragraph B (14) — Network Performance Analysis Records — Telstra's letter to Ms Sue Owens states that "no documents of these types have been located". Were such records to exist, they would be invaluable and the closest to the requirements of the Working Party's Term of reference 2.3.
20. Paragraph B (15) — Maintenance Unit Records — The significance of these documents, if they exist, is not clear to me.
21. Paragraph B (16) — Technical Assistance Fault Analyses — The request for Kyneton exchange records is reasonable.
22. Paragraph B (17) — Service Performance Records — The significance of these documents, if they exist, is not clear to me.
23. Paragraph B (18) — Automatic Line Fault Analysis Records — Telstra's response seems reasonable.



24. Paragraph B (19) — AXE Current Design Issues (Top 10 List Problems) — Telstra's response is understandable. I believe that this question has little relevance to Mr Plowman's telephone service.
25. Paragraph B (20) — Technical Performance Summaries — The significance of these documents, if they exist, is not clear to me.
26. Paragraph B (21) — Plant Performance Statistics Reports — The significance of these documents, if they exist, is not clear to me.
27. Paragraph B (22) — Various Ericsson Files — The significance of these documents is not clear to me.
28. Paragraph B (23) — All Internal Correspondence Regarding Reduction of Maintenance Staff in Kadina Area (1985 - 1995) — In my opinion, Telstra's treatment of this request is polite and constructive. If the request concerns the reduction of staff at Kyneton, I am not convinced of the relevance of the question. Measured against Term of Reference 2.3, the request is irrelevant.

D. TELSTRA'S RESPONSE TO MR PLOWMAN'S SUBMISSION DATED 11 DECEMBER 1997

1. The reader is asked to compare the following comments with Table 1, using the same paragraph numbering.
2. Paragraphs 1(a), 1(b) and 1(c) — Telstra states correctly that "at no time have there been any circuits directly linking the 03 area and the ARK or AXE exchanges at Woodend". Therefore the number of circuits is irrelevant and documentation relating to the routes does not exist. Telstra properly goes on to explain how 03 traffic was directed to the Woodend exchanges, as required by Term of Reference 2.3.

Note that paragraphs 1.1 (a), (b) and (c) failed in Table 1.

3. Paragraphs 1.2(a), 1.2(b), 1.2(c) and 1.2(d) — Given that there are no circuits directly linking the 03 area and the ARK and AXE exchanges at Woodend, Telstra's response is acceptable. However, Telstra offers a suggestion that traffic monitoring and testing between Melbourne Trunk Exchanges and Gisborne and/or Kyneton might be relevant. As a consequence, Telstra should offer documentation of such monitoring and testing, as judged relevant to Mr Plowman's claims.

Telstra's further clarification of other sources of information is very helpful. However, the interpretation of TRAXE, CENTOC and CRIS reports might prove burdensome.



Note that paragraphs 1.2 (a), (b), (c), and (d) were the only four to pass outright in Table 1.

4. Paragraphs 1.3 (a), 1.3 (b) and 1.3 (c) — As previewed in the preface to this report, the request as it stands is unreasonably onerous and a proper response would achieve very little benefit to Mr Plowman. In my opinion, even a modified request does not address network faults upon which may have affected the service to Mr Plowman's business telephone service.

I believe Telstra's response is very reasonable in that a constructive review is made of the network servicing Mr Plowman's business telephone service, and by means of this explanation, the Working Party's Term of Reference 2.3 is satisfied. Mr Plowman could ask for exchange records for Gisborne and Kyneton, but unless they relate to network and/or exchange faults, I see very little value.

Note that paragraphs 1.3 (a), (b) and (c) failed in Table 1.

5. Paragraphs 1.4 (a), 1.4 (b), 1.4 (c) and 1.4 (d) — Although the original question is not relevant, Telstra again helpfully offers to expand the interpretation of the request.

Note that paragraphs 1.4 (a), (b), and (c) were awarded a qualified pass in Table 1.

6. Paragraphs 1.5 (a), 1.5 (b) and 1.5 (c) — Telstra's response is very reasonable considering the nature of the question. Telstra would suggest that in response to (b) and (c) the inter-exchange network route was from Kyneton to Woodend and that documentation dealing with this route has already been provided. I note that the request does not deal with network faults, and therefore has very little relevance to network performance in servicing the business telephone service of Mr Plowman.

Note that paragraphs 1.5 (a), (b) and (c) failed in Table 1.

7. Paragraphs 1.6 (a), 1.6 (b), 1.6 (c) and 1.6 (d) — I note that Telstra, like me, has referred to an earlier response. Much of the request for information of 11 December 1997 is repetitive, at least in content, if not strictly in wording.

Note that paragraphs 1.4 (a), (b), and (c) were awarded a qualified pass in Table 1.

8. Paragraphs 1.7 (a) and 1.7 (b) — I had suggested in Table 1 that the question in 1.7 (a) was purely speculative and in 1.7 (b) was not necessarily related to the service offered to Mr Plowman. Telstra politely deals with these questions by suggesting names of documents.

Note that paragraphs 1.7 (a) and (b) failed in Table 1.



9. Paragraphs 1.8 (a) and 1.8 (b) — As for paragraphs 1.7 (a) and 1.7 (b). Telstra properly states that conversion of ARF to ARE exchanges predates the period of Mr Plowman's claims.

Note that paragraphs 1.8 (a) and (b) failed in Table 1.

10. Paragraphs 1.9 (a) and 1.9 (b) — I agree with Telstra that their response to paragraphs 1.7 is appropriate. I believe that the requests in paragraphs 1.9 are speculative and not necessarily related to Mr Plowman's service.

Note that paragraphs 1.9 (a) and (b) failed in Table 1.

11. Paragraphs 1.10 (a) and 1.10 (b) — Telstra has politely ignored the questions asked here and referred to the responses to requests in paragraph 1.7. It is my opinion, expressed in Table 1, that the questions are far too general and impossible to answer.

Note that paragraphs 1.10 (a) and (b) failed in Table 1.

12. Paragraphs 1.11 (a), 1.11 (b), 1.11 (c), 1.11 (d) and 1.11 (e) — These requests are not specific to Mr Plowman's business telephone service, but a proper response from Telstra is appropriate and reasonable on the topic of the effect of the under-dimensioning of CL software functional blocks on the processing of calls by an AXE exchange.

Note that paragraphs 1.11 (a), 1.11 (b), 1.11 (c), and 1.11(e) failed in Table 1. Paragraph 1.11 (d) was awarded a qualified pass if certain conditions were met.

13. Paragraphs 1.12 (a), 1.12 (b) and 1.12 (c) — To be fair, the documents sought by these paragraphs should relate directly to Mr Plowman's business telephone service. Telstra offers a number of helpful suggestions as to other sources of relevant information. However, I would have to question the benefit to Mr Plowman of these reports in their raw form if he were to obtain them.

Note that paragraphs 1.12 (a), (b) and (c) failed in Table 1.

14. Paragraphs 1.13 (a), 1.13 (b) and 1.13 (c) — Telstra politely limits the interpretation of sweeping generalisations to the delivery of calls from Kyneton and Gisborne to Woodend, and states that relevant documents have been supplied during the course of arbitration. CENTOC, TADMAR, Network Performance Reports and High Level Management Reports relating to routes between Melbourne Trunk Exchanges and Kyneton and Gisborne exchanges may be useful if supplied by Telstra. As always, the burden of interpretation of high level raw data may make the relevance of these reports of limited value.

Note that paragraphs 1.13 (a) was failed and 1.13 (b) and (c) received a qualified pass in Table 1.



15. In that Section 2 relates to the period 1 March 1991 and 28 February 1994, but all questions are essentially repetitions of those in Section 1, Telstra has chosen to refer the reader to its responses to Section 1. The exception is in Telstra's response to paragraphs 2.4 in which Telstra adds that TADMAR data were replaced by CENTOC, which in turn was replaced by TRAXE.

This is entirely reasonable and accords with my assessment of the requests in Section 2.

E. TELSTRA'S RESPONSE TO MR PLOWMAN'S SUBMISSION DATED 4 DECEMBER 1997

I am not in possession of Mr Plowman's submission to Telstra so cannot comment on Telstra's responses. Suffice to say that Telstra's responses refer to a number of statutory declarations which appear to have little relevance to Telstra's network or its performance.

F. COMMENTS ON TELSTRA'S RESPONSES PREPARED BY MR PLOWMAN, MRS GARMS AND MR SCHORER.

I refer to the letter of 1 March 1998 (the date has been altered by hand to read 2 March 1998) under the letterhead of Mrs Ann Garms; **Re: Comments on Telstra's Response to Plowman dated 13 February 1998.**

Telstra states that some documents exist and many documents have not been provided. To be scrupulously fair, I believe that a full and thorough search for relevant documents would span the spectrum from "onerous" to "impossible". I have already opined that, even if documents requested were made available to Mr Plowman, they would require expert interpretation and would probably be of little value in his case.

I believe there is much conjecture in this letter and have seen little evidence to support some of its claims. I found Telstra's response to Mr Plowman's requests polite, patient and constructive. I saw no attempt to evade appropriate questions and I understood that Telstra would provide some information not already delivered. I do not think that repetition of the same question by Mr Plowman, using the same words and phrases, will elicit further information.

I agree that further interviews with Telstra staff would be of benefit, and have taken steps to make appointments with Telstra officers familiar with the Gisborne-Kyneton-Woodend area. I am aware that time will prevent the detail of questioning suggested by this letter, but I would also point out that Mr Plowman is the subject of this particular enquiry. Thus, much of the letter's content referring to Mr George Close and his knowledge of parties other than Plowman, is irrelevant.



QYNCOM *IT&T Business Consultants*

In my "clause-by-clause" review of Telstra's response, I have asked Telstra to provide documents where they have been nominated as "not provided". In most instances these requests go beyond Telstra's obligation to comply with the Working Party's Term of Reference 2.3.

I am not qualified to comment upon a number of allegations referring to altered diary entries, the preparation of statutory declarations by third parties, the furnishing of "A" list documents on the day of Mr Plowman's arbitration, or any other perceived misdeeds.

In summary, I would say that Telstra's task is still far from complete, but that its efforts to date should be commended. Much of the verbal exchange between Mr Plowman and Telstra is a result of a lack of meaningful communication and a lack of focus on issues of network faults and parameters affecting Mr Plowman's business telephone service. // //

It is my belief that documentation should have been generated about network faults affecting Mr Plowman's business telephone service, but I cannot comment as to whether it still exists, or where it might be archived. There are still many avenues apparently unexplored. I would advise Mr Plowman to focus his efforts on areas likely to produce specific results. To reiterate — Telstra should seek, identify and provide documentation which relates directly to statistically significant changes to its network performance resulting from significant changes to network infrastructure and/or topology. // //

831

issues to be addressed in the *Fast Track Settlement* and proposed arbitration procedures.

The Cape Bridgewater Remote Customer Multiplexer (RCM)

7.29 Mr Smith of the Cape Bridgewater Holiday Camp, one of the *original GOT Cases*, reported a significant level of faults when serviced by the analogue ARK exchange at Cape Bridgewater. That exchange was replaced in 1991 with a modern AXE digital exchange at Portland together with a Remote Customer Multiplexer (RCM) at Cape Bridgewater. It appears that there were problems in the installation of the RCM and that the alarm system which was meant to be activated when the level of faults exceeded a specified threshold was not connected effectively. The alarm system may have remained non-operative for some 18 months. Data produced by Telecom indicates that during that 18 months one-third of the RCM capacity, including that part providing Mr Smith's service, was subject to 46,000 minutes of degraded service (Minute dated 12 July 1993, Telecom's Supervising Engineer, National Switching Support, Melbourne to Manager, Warrnambool Control Operations Group).

7.30 It is difficult to reconcile Telecom's recent explanation of the effect of the RCM's fault on Mr Smith's service with Telecom's own contemporaneous notes of its effect.

7.31 The Cape Bridgewater RCM fault was diagnosed by a technical expert from Telecom's National Network Investigations team in July 1993. He then wrote in the following terms to Telecom's Manager, Warrnambool Central Operations Group -

"Initial reports were of a vocal customer at Cape Bridgewater complaining of VF cut-offs [a term referring to loss of voice communications] in one direction. The customer had been transferred off system 1, onto systems 2 and 3 on the 24th February '93, and had experienced no further problems. Investigations revealed that system 1 was running a large number of degraded minutes (DM) and errored seconds (ES) in the Portland to Cape Bridgewater direction, these errors could have caused the VF cut-off problem."

(Minute dated 12 July 1993, Telecom's Supervising Engineer, National Switching Support, Melbourne to Manager Warrnambool COG)

AS 832

**AUSTEL**

AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

94/0269

8 December 1994

Mr Gordon Hughes
Hunt & Hunt
GPO Box 1533N
MELBOURNE 3001

Dear Mr Hughes

ISSUES RAISED WITH AUSTEL BY MR ALAN SMITH AND ISSUES RAISED BY MR SMITH UNDER THE FAST TRACK ARBITRATION PROCEDURE

I am writing to you in your capacity as Arbitrator of Mr Alan Smith's claim against Telecom under the Fast Track Arbitration Procedure, and am seeking your confirmation that Mr Smith has raised certain issues in his claim under this procedure.

The reason for my request is as follows. On 3 October 1994 Mr Smith wrote to AUSTEL raising issues concerning the operation of his telephone service at the Cape Bridgewater Holiday Camp. I wrote to Mr Steve Black of Telecom on 4 October 1994 requesting a response to the issues raised by Mr Smith. On 11 November 1994 Mr Ted Benjamin of Telecom replied to this letter stating that, inter alia:

Each of the questions put by you in your letter of 4 October, 1994 will be answered as part of Telecom's defence to Mr Smith's claim lodged under the Fast Track Arbitration Procedure.

This letter went on to argue that the issues raised by Mr Smith would be more appropriately dealt with under the Fast Track Arbitration Procedure, noting that the parties to this procedure are bound by the confidentiality provisions contained within it, and therefore unable to disclose "information relevant to defence documents" to third parties. I have enclosed my response to this letter, dated 1 December 1994, as well as copies of the other correspondence referred to above.

A major consideration in AUSTEL's pursuit of the issues raised by Mr Smith was the likelihood that these problems, if proved to exist, would almost certainly affect a number

5 QUEENS ROAD, MELBOURNE, VICTORIA
POSTAL: P.O. BOX 7443, ST KILDA RD, MELBOURNE, VICTORIA, 3004
TELEPHONE: (03) 828 7300 FACSIMILE: (03) 820 3021

11
AS 833

of other Telecom customers. In pursuing these issues, however, AUSTEL does not wish to disrupt Mr Smith's Fast Track Arbitration Procedure. As foreshadowed in my letter to Mr Ted Benjamin of 1 December 1994, AUSTEL is therefore seeking your confirmation that Mr Smith has raised in his Statement of Claim the issues raised in my 4 October 1994 letter to Mr Steve Black. If you are able to confirm that Mr Smith has raised these issues in his Statement of Claim then AUSTEL will not provide Mr Smith with a response to his 3 October 1994 letter, as he will have received a response from Telecom to the issues he raised in this letter through the mechanisms of the Fast Track Arbitration Procedure. I should emphasise that AUSTEL is not seeking any information whatsoever on the specific details of the issues raised by Mr Smith under the Fast Track Arbitration Procedure, and is essentially seeking a general confirmation that the identified issues have been raised in this procedure.

Should you require more information on the matters raised in this letter or the accompanying correspondence please telephone me on (03) 828 7443.

Yours sincerely,



Bruce Matthews
Consumer Protection

Enclosures: *Alan Smith letter of 3 October 1994 to Cliff Mathieson.*
Bruce Matthews letter of 4 October 1994 to Steve Black "Charging Discrepancies Reported by Alan Smith and Issues Related to Short Duration Calls on 008 Services."
Ted Benjamin letter of 11 November 1994 to Bruce Matthews "Charging Discrepancies Recorded by Alan Smith and Issues Related to Short Duration Calls on 008 Services"
Bruce Matthews letter of 1 December 1994 to Ted Benjamin "Charging Discrepancies Recorded by Alan Smith, Short Duration Calls on 008 Services and Alan Smith's Arbitration"

833

Campbell, Ian

From: Campbell, Iain
To: Campbell, Ian
Subject: FW: Gordon Hughes
Date: Thursday, 3 March 1994 9:16AM

DELIVERED TO IAIN CAMPBELL INSTEAD OF IAN CAMPBELL

From: Blount, Frank
To: Black, Stephen
Cc: 'Mason, Deldre'; Zoi, Charlia; Vonwiller, Chris; Burdon, Steve; Campbell, Ian
Subject: RE: Gordon Hughes
Date: Thursday, 3 March 1994 7:21AM

new; Pari:

Stephen:

I am more and more of the view that some form of summit meeting be held between Warwick Smith, AUSTEL (Robin Davey), Gordon Hughes, David Krasnostein, me, and perhaps others to put this "foolishness" behind us.

Please advise.

Frank

From: Black, Stephen
To: Blount, Frank
Subject: FW: Gordon Hughes
Date: Wednesday, March 02, 1994 10:50PM
Priority: High

Frank

Copy for your information

Steve Black

From: Black, Stephen
To: Krasnostein, David
Cc: Parker, Harvey; Rizzo, Paul
Subject: Gordon Hughes
Date: Wednesday, 2 March 1994 10:48PM
Priority: High

David

As discussed it appears that Gordon Hughes and Peter Bartlett are ignoring our joint and consistent message to them to rule that our preferred rules of arbitration are fair and to stop trying to devise a s of rules which meet all the COTS requirements and with which we might agree if we were prepared t waive further rights.

Whilst at a personal level I am of the view that we should walk away I do not believe that this option suits Telecoms wider strategy in that it would appear to lead directly to a senate enquiry.

My course therefore is to force Gordon Hughes to rule on our preferred rules of arbitration.

I am having our preferred rules prepared now based on Bartlett's latest rules plus our amendments. I have also initiated an independent and authoritative view on these rules, which I expect will advise th these rules are fair. I will then send these directly to Gordon Hughes with a direct and blunt request rule on whether they are fair.

I expect this action to be finalised by tomorrow midday.

Steve Black

001166

AS 834



AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

92/596 (6)

7 September 1993

Mr Jim Holmes
Corporate Secretary
Telstra Corporation Ltd

Fax 832 3215

Dear Mr Holmes

COT CASES MONITORING ARRANGEMENTS

Your "two bob each way" letter of 31 August 1993 outlining how Telecom is to monitor the COT Cases' services in response to AUSTEL's direction of 12 August does little to inspire confidence in Telecom's approach to the issue.

The offer to provide in two weeks hence a "... critique of the technical aspects of ... [the] ... direction, including the test call program specified" might be interpreted as nothing more than an attempt to lay a foundation for disowning the tests if they appear to support the COT Cases. Why when we first asked for the tests over two months ago (MacMahon's letter to Hambleton of 30 June 1993), does it take another two weeks to come up with a critique of the monitoring proposals? This is the very lack of the pro-active co-operative attitude which prompted the direction of 12 August 1993.

I have similar concerns about you seeking AUSTEL's approval of the monitoring equipment so long after we first asked tests to be done. There are concerns by some of the customers Telecom is to monitor about the effectiveness of the monitoring equipment. These concerns have been inspired, at least in part, by comments made by Telecom employees to those customers and, of course, the problem experienced by Mr Smith when testing/monitoring equipment caused additional problems for him. The advantage of having independent endorsement of the equipment prior to its installation and the production of test data seems obvious to me. Instead, we are still liaising to obtain details of the specification and capability of the equipment to be deployed after its installation in four of the cases and within days of the proposed installation in the other cases.

It is clearly in the interests of all concerned to ensure that the monitoring pursuant to AUSTEL'S direction is conducted in the most timely and efficient manner. Please liaise with Mr Cliff Mathieson, AUSTEL's Specialist Advisor - Networks, (03 828 7389) re approval of the monitoring equipment.

5 QUEENS ROAD, MELBOURNE, VICTORIA
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TELEPHONE: (03) 828 7300 FACSIMILE: (03) 820 3021

AS 835

R10690

Draft conditions for installation of equipment

The draft list of conditions for installation of monitoring equipment in the customers' premises only serve to reinforce my view that your letter is an attempt to have "two bob each way" - if the testing does not favour Telecom, you have laid a foundation for claiming that it is due to customer interference. I have already conveyed to you my concern that Telecom is unable to come up with tamper proof monitoring equipment for installation on the customers' premises.

Subject to you removing the endorsement "Telecom in confidence" on the top of the draft conditions, I am prepared to have them conveyed to the customers. I should, however, point out that they reflect little credit on Telecom if its intention were to produce a document that endeavours to provide the customers with any explanation or reasoning for the conditions.

Technical complexities

We look forward to receiving the technical and operational submission foreshadowed in your letter. The timing of about three weeks would seem appropriate. A decision whether, as suggested in your letter, it is desirable to engage an independent technical expert will be taken after receipt of your submission. If that is necessary, AUSTEL would be looking to Telecom to meet the costs involved.

Access to file and documents

While I understand that the arrangements for file examination are proving adequate, there was an agreement to list all files by 19 August and I understand that only some 60 files have been identified to AUSTEL to date. Please provide a comprehensive listing by the end of this week (10 September 1993).

Is it possible to provide parking for AUSTEL's officers who are attending Telecom's premises to inspect the files? This would result in a significant cost saving to AUSTEL's personnel who currently have to make use of commercial parking.

Yours sincerely


Robin C. Davey
Chairman

835

R10691

12.07.01

Alan phoned at 11.15 am and asked me to phone him back on his fax line number.

I phoned as requested and held the phone while he hung up. I heard the click of the phone connecting with the cradle but then couldn't hear a dial tone – just silence. Alan counted to ten and picked his phone up again and we were still connected.

Alan hung up again and counted to sixty – still I couldn't hear a dial tone and still I was connected when he picked up the receiver again.

AS 836

DAVID HAWKER MP
Federal Member for Wannoo
~~Member for East Transport~~



9 December 1993

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

Dear Mr Smith

Thank you for your letter of 6 December 1993 enclosing the Coopers and Lybrand report and Warwick Smith's correspondence.

I appreciate being kept informed of developments and would like to congratulate you in your persistence to bring about improvements to Telecom's country services. I regret that it was at such a high personal cost.

Please find enclosed your copy of the Coopers and Lybrand report.

With best wishes for a safe and happy Christmas and New Year.

Yours sincerely


DAVID HAWKER, MP

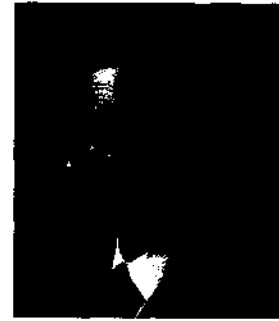
ene
L2149-L93

Electronix Office: 97 Thompson Street, Hamilton, Vic. 3300 Telephone: (055) 72 1100, Fax: (055) 72 1141
Canberra Office: Suite R1 113, House of Repr., Canberra, ACT. 2600 Telephone: (06) 277 4231, Fax: (06) 277 4989



THE HON DAVID HAWKER MP

FEDERAL MEMBER FOR WANNON



14 January 2009

Mr Alan Smith
1703 Bridgewater Rd
CAPE BRIDGEWATER VIC 3305

Dear Alan

Thank you for your letter of 12 January 2009. I was concerned to learn of the plight of Darren and Jenny Lewis and their current court proceedings.

In your correspondence you request access to letters we exchanged in 2000 and 2001 relating to your dealings with Telstra, prior to Darren taking ownership of the Cape Bridgewater Holiday Camp (now known as Cape Bridgewater Coastal Camp).

I regret to advise that like you, I no longer retain files dating back to this period. My office has a procedure for the routine secure destruction of hard copy files as we do not have the capacity to store records ad infinitum.

In an endeavour to assist you, I have located some electronic files on my file server and I have enclosed copies of my correspondence to you during 2000 and 2001.

Thank you also for your courtesy in providing me with a copy of your letter to the TIO, Ms Deirdre O'Donnell, dated 12 January 2009.

Every best wish for the year ahead.

Kind regards

THE HON DAVID HAWKER, MP
Member for Wannon

Enc

Ref: fb/dh:mc

AS 838

95/0592-02

Telecom
AUSTRALIA

134

354.

Commercial & Consumer
Customer AffairsLocked Bag 4960
Melbourne Vic 8100Telephone (03) 632 7700
Facsimile (03) 632 3241

18 March 1994

cc MR John MacMahon

~~Mr Robin Davey
Chairman
AUSTEL
5 Queens Road
MELBOURNE VIC 3004~~**FAXED**

.1.8.1...3.1...2

Dear Mr Davey,

TAPE RECORDERS - USE IN LOCATING FAX FAULTS

As you would be aware, Telecom has ceased the use of tape recorders in detecting service faults pending agreement on a new Privacy Policy and Voice Monitoring Guidelines.

However, it is evident that the cessation of tape recording may result in a lower level of customer service in respect of service faults with fax machines.

A number of national and cross divisional technical testing centres have been established in Melbourne, Sydney and Perth for the testing of fax machines. These testing centres undertake the technical testing of faults reported on fax machines and diagnose the fault condition and identify whether the fault is indicative of a network or CPE fault. The area is a difficult one given the need to distinguish between network and fax machine faults.

The standard procedure is for the customer to ring the test desk and send a test facsimile transmission to the test desk which records the handshake process and the related protocol information. This technical information is then replayed to an expert testing officer to diagnose the fault. For difficult faults the technical information may be further subjected to technical analysis in comparison against the standard protocol for that equipment.

In a small number of cases, where the customer indicates that the problem is specific to transmission between two particular facsimile machines then, with the consent of the customers controlling those facsimile machines, the test transmission between those facsimile machines will be taped and analysed.

In order to provide a high grade of customer service in this area the use of tape recorders is necessary.

In these cases, recording would be carried out in circumstances where:

- the customer's consent has been confirmed in writing by facsimile or otherwise;
- the recording would be of signals generated by a test message;
- there is no B party involved.

AS 839

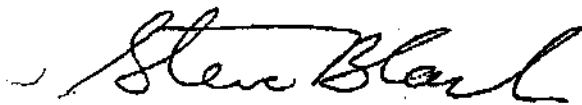
In such a situation, Telecom considers there is no issue involving either the Telecommunications Interception Act or the States' Listening Devices Act. Also no privacy issue would seem to arise.

Nevertheless, Telecom considers that the formulation and application of guidelines would be advisable. These guidelines are attached for your information.

The Telecommunications Industry Ombudsman and the Privacy Commissioner have been advised in similar terms.

In testing fax protocols, the use of pip tones is impractical as it significantly interferes with the testing process. As well, Telecom's understanding of the relevant AUSTEL Technical Standard is that the use of pip tone is not required in testing for fax faults as described in this letter. For these reasons Telecom does not intend to use them unless it receives advice to the contrary.

Yours sincerely,



Steve Black
GROUP GENERAL MANAGER - CUSTOMER AFFAIRS

cc. J. MacMahon, T. Benjamin, M. Pickering

GUIDELINES FOR USE OF TAPE RECORDINGS IN FAX FAULT SERVICE:

Tape recorders may be used to detect difficult fax service faults provided that:

- the customer's written approval either by facsimile or otherwise has been obtained;
- a log is kept by Telecom (at the Test Desk) to record the use of the tape recorder;
- the log shows the date, time and fax number tested and the identity of the technician carrying out the test;
- the technician carrying out the test certifies in writing that,
 - the customer has given written consent for the test,
 - no voice recordings were made,
 - the recording was required for fault finding purposes only,
 - the certification is filed with the log and audited accordingly;
- all tape recordings made are kept in tight security whilst faults are being cleared;
- upon clearance of the fault the tapes are immediately erased and the technician certifies to that effect.

Commonwealth of Australia
STATUTORY DECLARATION

Statutory Declarations Act 1959

1 Insert the name, address and occupation of person making the declaration

I, ALAN SMITH
1703 Bridgewater Road
Portland
VICTORIA

2 Set out matter declared to in numbered paragraphs

make the following declaration under the *Statutory Declarations Act 1959*:

Individual copies of this Statutory Declaration will be forwarded to the following list of people, together with the attachments listed below:

- *The Hon Mr Frank (Judge) Shelton, County Court Victoria;*
- *The Hon Michael Kirby, AC CMG;*
- *Ms Kate Conners, Associate to Mr G.D. Friedman, Senior Member of the Administrative Appeals Tribunal; and*
- *Ms Melissa Gangemi, Lawyer with the Australian Government Solicitor.*

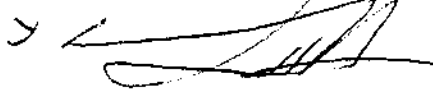
ATTACHMENT 1: A letter dated 9th May 2011, from Mr Warren Fischer, clearly stating that, some time in December 2010, the IAMA CEO notified me, in writing, that the IAMA Ethics and Professional Affairs Committee had completed their investigations into my arbitration complaints. While this may be true, it is also true that neither my partner (Cathy Ezard) nor I have ever received that document and this is why, at various times in the past, I have written to those listed above, noting that the IAMA had not notified me of the result of their investigation. The more recent IAMA investigations began on 26th July 2009. If I had received the document that Mr Fischer alleges was sent in December 2010 I would not have continued to complain about what seemed to be an inordinately slow IAMA Ethics and Professional Affairs Committee investigation.

ATTACHMENT 2: My response dated 16th May 2011, to Mr Fischer's letter of 9th May 2010;

ATTACHMENT 3: My joint letter dated 16th May 2011 to *The Hon Mr Frank (Judge) Shelton, County Court Victoria, The Hon Michael Kirby, AC CMG, Ms Kate Conners, Associate to Mr G.D. Friedman, Senior Member of the Administrative Appeals Tribunal, and Ms Melissa Gangemi, Lawyer with the Australian Government Solicitor.*

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

3 Signature of person making the declaration

3 


4 Place

5 Day

6 Month and year

Declared at ⁴ PORTLAND on ⁵ 16TH of ⁶ MAY 2011

7 Signature of person before whom the declaration is made (see over)

7 Before me, 

8 Full name, qualification and address of person before whom the declaration is made (in printed letters)

8 JACK FLETCHER, Const. 37241
Portland Police Station
Glenelg Street
PORTLAND 3305

Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years — see section 11 of the *Statutory Declarations Act 1959*.

Note 2 Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* — see section 5A of the *Statutory Declarations Act 1959*.

AS 840

My Telstra account for my fax line, below, also covers the time span during which I sent these faxes.

Account 776 7288 200

Issue Date 01 Mar 99

Page 4

Item **STD Calls - Itemised** *continued*

STD calls *continued*

	Date	Time	Place	Number	Rate	Min:Sec	\$
	Telephone Service 03 5526 7285 <i>continued</i>						
247	21 Feb	06:15 pm	Melbourne	0398761853	Economy	1:17	0.31
248	21 Feb	06:17 pm	Melbourne	0398761254	Economy	0:50	0.27
245	21 Feb	06:39 pm	Colac	0352322449	Economy	1:08	0.31
210	22 Feb	12:12 pm	Melbourne	0392877099	Day	8:40	2.51
221	22 Feb	12:28 pm	Melbourne	0395266614	Day	2:34	0.81
220	22 Feb	12:32 pm	Melbourne	0395266614	Day	0:07	0.11
222	22 Feb	12:33 pm	Melbourne	0395266616	Day	9:30	2.71
250	22 Feb	02:41 pm	Melbourne	0398761254	Afternoon	4:05	1.11
271	22 Feb	03:40 pm	Warrambool	0355616193	Afternoon	1:36	0.41
275	22 Feb	04:31 pm	North Geelong	0352794444	Afternoon	0:55	0.31
239	22 Feb	08:08 pm	Melbourne	0398761254	Economy	1:08	0.31
194	22 Feb	09:12 pm	Warrambool	0355614038	Economy	1:14	0.21
207	24 Feb	07:42 pm	Melbourne	0395114336	Economy	17:22	2.51
216	24 Feb	08:30 pm	Grovedale	0352414045	Economy	3:39	0.61
284	24 Feb	08:34 pm	Melbourne	0395538030	Economy	34:05	3.01
285	24 Feb	09:19 pm	Buderim	0754453198	Economy	14:03	2.11
286	24 Feb	09:57 pm	Buderim	0754453198	Economy	1:09	0.31
210	25 Feb	09:41 am	Melbourne	0392877099	Day	18:22	5.21
217	25 Feb	10:00 am	Melbourne	0392877001	Day	2:13	0.71
223	25 Feb	11:41 am	Grassmere	0355654227	Day	3:11	0.71
224	25 Feb	11:58 am	Port Fairy	0355681057	Day	1:36	0.41
198	25 Feb	12:26 pm	Melbourne	0392877099	Day	8:58	2.61
263	25 Feb	01:07 pm	Melbourne	0392877099	Afternoon	1:05	0.41
258	25 Feb	03:51 pm	Melbourne	0398761254	Afternoon	4:50	1.31
259	25 Feb	03:56 pm	Melbourne	0398761853	Afternoon	1:02	0.41
257	25 Feb	03:57 pm	Melbourne	0398761254	Afternoon	1:34	0.61
231	25 Feb	06:48 pm	Melbourne	0392877001	Afternoon	0:52	0.11
209	25 Feb	07:18 pm	Melbourne	0398761853	Economy	1:19	0.31
195	26 Feb	08:39 am	Melbourne	0398761853	Day	0:57	0.41
244	26 Feb	10:48 am	Melbourne	0398761254	Day	0:19	0.21
243	26 Feb	10:55 am	Melbourne	0392877001	Day	0:47	0.11
229	26 Feb	11:05 am	Melbourne	0392877099	Day	10:12	2.91
228	26 Feb	11:20 am	Melbourne	0392877001	Day	1:57	0.61
227	26 Feb	11:24 am	Canberra	0262711000	Day	0:10	0.11
230	26 Feb	11:46 am	Melbourne	0392877099	Day	7:40	2.11
197	26 Feb	01:04 pm	Melbourne	0392877099	Afternoon	7:55	2.11
198	26 Feb	01:37 pm	Melbourne	0392877001	Afternoon	0:46	0.11
277	26 Feb	03:30 pm	Melbourne	0392877099	Afternoon	0:35	0.11
276	26 Feb	04:01 pm	Melbourne	0392877099	Afternoon	2:32	0.71

AS 841

SID : GOLDEN

Number L1 : 613 9287 7881
Number L2 :

Date : 26-02-99 14:14

Date/Time	Subscriber	Mode	Pages	Durat.	Status	Note
25-02 15:29	3266223	FINE	1	2'14"	Correct	L1
25-02 15:39	613395089446	NORMAL	1	0'27"	Correct	L1
25-02 16:45	+61 7 3257 1503	NORMAL	3	1'37"	Correct	L1
25-02 17:11	61 3 90287389	NORMAL	3	0'49"	Correct	L1
25-02 17:17	61 3 92138849	FINE	1	0'49"	Correct	L1
25-02 18:12	+61 7 3257 1503	NORMAL	3	1'44"	Correct	L1
25-02 18:46	855 267238	NORMAL	1	0'47"	Correct	L1
26-02 7:51	93281881	NORMAL	1	0'47"	Correct	L1
26-02 8:28	61 6 249 7829	NORMAL	1	0'21"	Correct	L1
26-02 9:01	61 3 96885838	NORMAL	2	0'48"	Correct	L1
26-02 10:21	61 3 96328875	NORMAL	11	5'24"	Correct	L1
26-02 10:38	61 3 9432 4716	NORMAL	1	0'37"	Correct	L1
26-02 10:40	61 3 96328875	NORMAL	12	5'41"	Correct	L1
26-02 10:53	855 267238 ✓	NORMAL	1	0'42"	Correct	L1
26-02 11:00	61 3 96328875	NORMAL	3	1'12"	Correct	L1
26-02 12:01		FINE	1	0'39"	Correct	L1
26-02 13:35	855 267238 ✓	NORMAL	1	0'41"	Correct	L1
26-02 14:12	+6132652556	NORMAL	3	0'54"	Correct	L1

AS 842

ALAN SMITH

Cape Bridgewater Holiday Camp
Blowholes Road, RMB 4408
Portland, 3305, Vic, Aust.
Phone: 03 55 267 267
Fax: 03 55 267 265

21/9/99

LETTER ONE

Mr John Pinnock
TIO
Melbourne

Dear Mr Pinnock,

A copy of the attached seven page fax was first forwarded to Mr Wally Rothwell, at your office, on 16 July 1998 and was among a number of documents returned to me from your office earlier this year. All these returned documents related to my complaints regarding fax faults — complaints which your office has refused to address.

The attached fax is of particular interest. As you can see, the first page of the letter addressed to the Prime Minister has been reduced so that the text is much smaller than the normal-sized text of the remaining pages of the letter. The covering fax sheet, addressed to Mr Rothwell, has come through the fax, ahead of page one of the Prime Minister's letter, in normal size text. Not only is the text of page one of the letter smaller but so is the identification printed across the top of the page. If, for some reason, I had reduced the first page of the letter on a photocopier, before faxing it on to you, this would not have affected the Cape Bridgewater Identification which the fax machine prints out across the top of each page.

On this particular day (16/7/98) I used a different fax machine to the two other machines I previously used, during the arbitration process. This seems to indicate that, since it is unlikely that three different machines would all exhibit problems, the problem must have been with the phone line. Considering the fact that there were many problems with my fax line between 1993 and mid-1998, it seems this is yet another problem with the line.

Mr Rothwell wrote to me on 16/7/98, advising that he would ask Telstra how my fax machine could send blank faxes to my solicitor, William Hunt, in Melbourne. I have not yet heard the result of this inquiry and I would be grateful if you would now ask Telstra to explain both the blank fax pages which arrived at Mr Hunt's Melbourne office and the reduced page of the attached document. If you are not in a position to instigate this inquiry I would be grateful if you could advise me where I can now go to have these questions answered.

AS 843

In April this year (four years after the arbitrator handed down his award) I received a number of FOI documents which show quite clearly that your office corresponded regularly with Fiona Hills of Telstra and Grant Campbell of Warrick Smith's office. According to other recently received FOI documents, Warrick Smith is on record as stating that my fax faults were only recent and would therefore not have affected my arbitration. Since his own Grant Campbell held a file of information related to my complaints, Mr Smith's statements astound me. It is clear that he was prepared to go to enormous lengths to disadvantage me because, as you know, both Austel and the Minister at the time, Senator Michael Lee, indicated both to Mr Smith and to me, their concern about the fax problems I had suffered on a continual basis from 1993 on. Mr Smith therefore must have been fully aware that these were not 'recent' faults.

The Telecommunications Industry Ombudsman's office has a lot to answer for in regard to the way the COT arbitrations were administered.

I await your response.

Sincerely,

Alan Smith

copies to:

**The Board of the TIO's office, Melbourne
Mr David Smith, Corrs Chambers Westgarth, Melbourne.**

843

Alan Smith
Cape Bridgewater Holiday Camp
Blowholes Road
RM11 4408
Portland 3505
Victoria, Australia.

18 July 1998

Phone: 03 55 267 267
Fax: 03 55 267 230

The Hon John Howard
Prime Minister
Parliament House
Canberra ACT

Dear Sir,

I refer you to my letter of 21/6/98 and the draft of my forthcoming book on the COT saga, which was attached. In this draft I have shown many alarming issues relating to the unethical way in which Telstra's senior management treated a number of small business people whose only crime was to challenge Telstra about the level of service provided through their network.

The Hon. Warrick Smith MP, now a member of your Cabinet, was aware of the structure of the original Fast Track Settlement Proposals (FTSP) which were set up for commercial assessment of the COT four. At point 40 in the original document, Robin Davey, then Chairman of Austel and orchestrator of the drafting of the FTSP agreement, made it particularly clear to Ian Campbell, Telstra's liaison officer assisting Mr Davey in the drafting of the FTSP, that Freehill Hollingdale & Page, Telstra's Solicitors, should not be used by Telstra in the COT issues, when he noted:

"Finally, if the attached letter (attachment D) dated 7 July 1993 from Freehill Hollingdale & Page to one of the COT case's Solicitors is indicative of the way that Freehill Hollingdale & Page have approached the COT cases in the past, I would be more than a little concerned if they were to have a continuing role."

Both Robin Davey and Warrick Smith were aware that, throughout many months in 1993 and 1994, I had to register my phone complaints, in writing, to Denise McBurnie of Freehill Hollingdale & Page. In some instances I waited up to two weeks for a written response to these complaints. I have since been advised by a researcher who is assisting with the preparation of my book that this practice was set in place in an attempt to wear me down and it very nearly did - during this time it was not uncommon for my staff to see a grown man of 40 in tears.

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In the draft copy of my book I have also supported my allegations regarding invasion of my privacy by Telstra over a number of years, as well as the invasion of privacy of others of the COT four. Further, in one batch of FOI documents which I received from Telstra there was a copy of a phone account belonging to a lady with whom I had been involved in a relationship. These privacy issues were the reason for the Arbitration between the COT members and Telstra but they have never been addressed.

In further relation to the privacy issues I have attached to this letter a copy of a letter headed "COT Cases - Tapes" and dated 10 February 1994. This letter was written by John MacMahon, General Manager, Consumer Affairs, Austel to Steve Black of Telstra, acknowledging that Telstra had listened to and taped the phone calls of members of COT. On 22 April 1994 Mr MacMahon also wrote to me, acknowledging (at point 4) that Telstra had listened to my private phone calls. Other documentation supporting this evidence will be included in my book, including the following which is taken from a Telstra document which I received under FOI:

"Eg. Pinal & Powells of Telecom were both interviewed by C&L yet evidence shows that they were both aware of Garnis' phone calls being taped. Also attached is a list of those executives who were more than likely aware of the voice monitoring." (C&L refers to Coopers & Lybrand)

In my letter to you on 21/6/98 I also raised questions relating to Telstra's senior management misleading both myself and Austel by stating that they had supplied Austel with ALL the contents of a Telstra briefcase which had been inadvertently left at my premises by a Telstra employee (Mr Hugh Macintosh). I have been able to provide Mr Wally Rothwell, Deputy TIO, with documents showing that Telstra knowingly withheld from Austel very sensitive documents that were originally in the briefcase when it was left at my office.

Also attached is a copy of FOI document K03281, dated 17/6/93, regarding Telstra files which were in the briefcase. In this letter Telstra clearly states:

"Please find attached a letter from Austel requesting information regarding that incident. Whilst I can respond to the details regarding the information provided to him at the time of settlement I cannot comment on the variation between what Mr Smith was told and the contents of the Network Investigations files."

This reference to "the time of settlement" refers to information I was given by Ms Rosanne Pittard of Telstra and it also relates to a number of claim documents which I faxed to Dr Hughes, my Arbitrator, during the FTAP. It now appears that at least 43 of these documents may never have arrived at Dr Hughes's office.

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Some of these missing documents related to a recorded voice announcement (RVA) which Telstra acknowledge was on my line for 50% of the time over a 16 day period whereas I allege that it was on my line for YEARS. Because my documents went missing, the Technical Resource Unit attached to the FTAP, and the Arbitrator himself, accepted only Telstra's information in this matter yet I saw documents in Hugh Macintosh's briefcase which showed that Telstra knew that this RVA fault had been existence for at least 8 months.

The issues I am now asking you to address are:

- 1 Why, as administrator to the four COT Arbitrations, did the Hon Warrick Smith allow Telstra to continue to use Freehill Hollingdale and Page as part of their Defence team when he was aware that COT members were told this would not be the case?
- 2 Why did Telstra's senior management continue to document my private matters and listen in to my private phone calls?
- 3 Why did Telstra mislead both Austel and me during the period of my settlement when they were aware that the information I was given by Telstra's Rosanne Pittard was misleading and deceptive and would induce me into accepting a commercial settlement?
- 4 How could Warrick Smith mislead the Senate by telling Senator Alston, Senator Boswell and others that the FTSP/FTAP would be non-legalistic when, as a legally trained person, he must have been aware that it would actually be very legalistic?

I look forward to your early response.

Sincerely,

Alan Smith

PS:

The issues of invasion of privacy and unethical conduct by Telstra during the COT Arbitrations have been brought to your Government's attention a number of times over the last few years but no-one in your Government has so far been able to address these issues. Neither Senator Richard Alston nor Warrick Smith MP have been able to pressure Telstra, as a Government owned company to conduct these Arbitrations in a dutiful manner (none of these Arbitrations were ever handled in a dutiful manner).

continued

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If the Government can't control Telstra when they *own* Telstra, and make them conduct themselves correctly in a business-like manner, what will happen if Telstra becomes privatised? What will happen when the Government no longer has *any* control? Telstra should not be fully privatised until your Government has investigated the way the COT Arbitrations were conducted and the findings have been made public.

Senator Alston and Warrick Smith are aware that another COT member, Ms Ann Garms, is currently in the Supreme Court, challenging Telstra over her Arbitration. The costs of this process so far are in excess of \$300,000 - a crippling amount for a small business to cope with AND.....

Telstra's defence counsel is none other than Freehill, Hollingdale and Page.

copies to:

Senator Chris Schacht, Shadow Minister for Communications, Canberra

Senator Mal Colston, Independent, Canberra

Senator Graham Campbell, Independent, Canberra

Wally Rothwell, Deputy Ombudsman, TIO's office, Melbourne

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