

1286794

DATE : 24/09/2002  
Closed/Resolved (Closed on : 28/10/2002)  
FLM

Issue Description Date Received 18/10/2002  
Open/ARR  
TIO TIO Type :Level 1  
Ref # : 02/101638-1 Due Date 01/11/2002  
Ser : c792194 Date Create 18/10/2002  
Location : TIO Level 1 Complaint. 02/101638-1.  
The TIO have now raised a Level 1 complaint on behalf of  
Mr. & Mrs. Lewis. The TIO have specifically mentioned in  
their correspondence that the TIO have previously  
investigated a number of complaints raised by [REDACTED]  
[REDACTED] the previous account holder for this service, in  
which similar issues were raised.  
[REDACTED] TIO Liaison. (03) 9634 [REDACTED]  
Resolution Details Date Received  
CRU Closed  
TIO Type :  
Ref # : 02/101638-1 Due Date 01/11/2002  
Ser : c792194 Date Create 18/10/2002  
Location : Transferred to Region for contact with customer by the due  
date of 01/11/02

100271

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\*\* COMPLAINT ID \*\* 1286794

COMPLAINT DATE : 24/09/2002  
 STATUS : Closed/Resolved (Closed on : 28/10/2002)  
 CURRENT OWNER : ██████████  
 SC Level : FLM

Action Code : Transfer Action Date 16/10/2002  
 Created By : ██████████ Create Date 16/10/2002  
 File Exist ?  
 Description : For action  
 Transfer To : ██████████

Action Code : Accept Ownership Action Date 16/10/2002  
 Created By : ██████████ Create Date 16/10/2002  
 File Exist ?  
 Description : Accepted ██████████

Action Code : Transfer Action Date 16/10/2002  
 Created By : ██████████ Create Date 16/10/2002  
 File Exist ?  
 Description : Hi ██████████  
 Exch = CBWR FSA = WESTERN  
 Transferring for investigation.  
 Thanks, ██████████  
 Transfer To : ██████████

Action Code : Contact with Customer Action Date 16/10/2002  
 Created By : ██████████ Create Date 16/10/2002  
 File Exist ?  
 Description : Min Rep 20021000381. David Hawker MP has written to  
 Senator Alston on 10 October and included a 3 October  
 letter from Darren and Jenny Lewis. This 3 October  
 letter has been cc'd to the TIO but doesn't seem to have  
 made it's way into Telstra yet. Will follow in Cicero  
 and respond accordingly. Hopefully, the TIO will become  
 involved and that will take the Minsiter and Member out  
 of the equation  
 Contact : Lewis, Darren, Mr  
 Channel : Letter

Action Code : Accept Ownership Action Date 17/10/2002  
 Created By : ██████████ Create Date 17/10/2002  
 File Exist ?  
 Description : accept ownership

Telstra Confidential

Page3 of 9

Printed by: ██████████ : Read &amp; Report

Date Printed: 10 FEB 2003

I00265

4-B



Department of  
Communications  
Information Technology  
and the Arts

**FACSIMILE**

our reference

to: Telecommunications Industry Ombudsman	from: Mark Dunstone
fax: 1800-630-634	phone: (02) 6271 1848
phone:	fax: (02) 6271 1850
number of pages: 17	date: 29 January 1999

GPO Box 2154 Canberra ACT 2601 Australia • telephone 02 6271 1000 • facsimile 02 6271 1901  
email [dcita.mail@dcita.gov.au](mailto:dcita.mail@dcita.gov.au) • website <http://www.dcita.gov.au>

Mr John Pinnock  
Telecommunications Industry Ombudsman

**COT CASES - ALAN SMITH**

Following a Departmental restructuring I am now the Manager of Consumer and Pricing Section, replacing Ms O'Grady. I understand that my team has frequent contact with your office concerning various consumer complaints.

We have been referred correspondence from one of the COT cases - Mr Alan Smith who has written to the Treasurer. I understand he also sent you a copy.

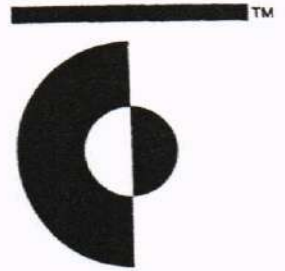
Previous advice from your office concerning Mr Smith was to the effect that you were still considering whether or not you would investigate his claim of overcharging on his 1800 number.

I would be grateful if you could advise the status of the TIO's investigation into Mr Smith's claim of overcharging - I understand this matter has been before the TIO for some years.

**Mark Dunstone**

4-C





10 February, 1999

Telecommunications  
Industry  
Ombudsman

John Pinnock  
Ombudsman

Mr Mark Dunstone  
Department of Communications Information  
Technology and the Arts  
GPO Box 2154  
CANBERRA 2601

*Facsimile 02 6271 1901*

Dear Mr Dunstone

**Mr Alan Smith**


I refer to your letter of 29 January 1999.

You would be aware from a perusal of departmental files that there has been extensive correspondence between the Department and the TIO concerning the COT Cases, including Mr Smith.

Mr Smith's most recent letter of 2 November 1998 is but one of many in a steady stream of complaints concerning the administration by the TIO of his Arbitration and the Award of the Arbitrator. Much of this correspondence contains allegations of impropriety on the part of the TIO, the Arbitrator and the Technical Resource Unit. I no longer have patience nor, I believe, the obligation to continue to respond to these repeated and unfounded complaints.

Mr Smith, however, raised issues in 1998 which I considered merited investigation, viz. whether the Arbitrator had, in his Award dealt with Mr Smith's claim that he had been overcharged on his 800 (now 1800) telephone service as well as complaints concerning his fax line. The TIO has carried out some preliminary, if protracted, investigation of the former claim and I will be writing to Mr Smith in the next week concerning this issue. In relation to the latter claim, Mr Smith wrote to me on 5 February 1999 requesting the return of all correspondence so that he could discuss the matter with the Commonwealth Ombudsman because, Mr Smith claimed, the TIO had not properly investigated the matters.

Yours sincerely



**JOHN PINNOCK**  
**OMBUDSMAN**

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

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Att/plainan/1056

Telecommunications Industry Ombudsman Ltd

ACN 057 634 787

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Telecommunications  
Industry  
Ombudsman

John Pinnock  
Ombudsman

10 February, 1999

Mr David Hawker MP  
Federal Member for Wannon  
190 Gray Street  
HAMILTON 3300

*Facsimile 03 5572 1141*

Dear Mr Hawker

Mr Alan Smith

I refer to your letter of 11 December 1998 and apologise for the delay in replying.

You will be aware from previous correspondence that Mr Smith has made numerous and varied accusations about the conduct of his Arbitration, which was completed in May 1995, by the TIO, the Arbitrator and the Resource Unit which provided expert assistance to the Arbitrator.

His most recent complaint concerning the transmission of facsimiles is, in my opinion, without substance. First, there is no evidence that his facsimile service has been, at any time, intercepted by Telstra or anyone else. Second, with certain minor exceptions I can say that all documents relevant to his Arbitration were forwarded to Telstra and the Special Counsel.

More importantly documents supplied to the TIO were forwarded to the Arbitrator as required under the Fast Track Arbitration Procedure.

The only matter outstanding which the TIO is considering is whether the Arbitrator considered Mr Smith's claim for overcharging on his then 800 service when he made his Award. I shall be writing to Mr Smith on that matter in the next week.

Yours sincerely

JOHN PINNOCK  
OMBUDSMAN

4-E

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

At/pinnock/1058

Telecommunications Industry Ombudsman Ltd

ACN 057 634 787

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DEPARTMENT OF  
COMMUNICATIONS  
AND THE ARTS

Our Reference

**FACSIMILE**

To: Mr John Pinnock  
Telecommunications Industry Ombudsman  
Phone number: 1800-062-058  
Facsimile number: 1800-630-614

From: Toni Ahkin  
Phone number: (02) 6271 1509  
Facsimile number: (02) 6271 1850  
Date: 19 January 1998  
Number of pages:

GPO Box 2154 Canberra ACT 2601 Australia. Telephone (02) 6271 1000 Facsimile (02) 6271 1901 Email [dca@dca.gov.au](mailto:dca@dca.gov.au)

Mr Pinnock

Further to this morning's discussion concerning Alan Smith I am forwarding you 8 pages of a 40 odd page Min Rep - 97120258 for your information; coupled with 3 pages from Telstra on Mr Smith's allegations that he was overcharged on 1800 numbers. Min Rep 97090972 has been marked for response.

Telstra has undertaken to provide a transcript of the 14 January meeting with Mr Smith. This information is needed in order to respond to Min Rep 97090972 and I will forward a copy to you on receipt of this information.

To Smith File

 19/1

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DEPARTMENT OF  
COMMUNICATIONS  
AND THE ARTS

Our Reference

23 JAN 1998

**FACSIMILE**

To: Mr John Pinnock  
Telecommunications Industry Ombudsman  
Phone number: 1800-062-058  
Facsimile number: 1800-630-614

From: Toni Ahkin  
Phone number: (02) 6271 1509  
Facsimile number: (02) 6271 1850  
Date: 23 January 1998  
Number of pages: Cover + 3

GPO Box 2154 Canberra ACT 2601 Australia. Telephone (02) 6271 1000 Facsimile (02) 6271 1901 Email dca@dca.gov.au

Mr Pinnock

Alan SMITH - Proposed replies for Senator Alston's signature

I am forwarding copies of our proposed replies (that will be sent to the Minister's office today) to David Hawker and Alan Smith in response to recent Min Rep's concerning the arbitration process and overcharging on Mr Smith's 1800 number.

*Don't seem to want specific comment from TIO.*

*Noted:-*

*[Handwritten signature]*



*H-G*

*Wally* This matter should be classified as a Dispute  
 Please advise Jim & handle yourself. We will need to discuss P. of any raw data etc such notes have sent us.  
 Please discuss content of letter to Smith. *JH*  
 9/2.

4 February 1998

RECEIVED

6 FEB 1998

Regulatory & External Affairs

37/242 Exhibition Street  
Melbourne Vic 3000  
Australia

Telephone 03 9634 2977  
Facsimile 03 9632 3235

Mr John Pinnock  
Telecommunications Industry Ombudsman  
315 Exhibition Street  
Melbourne Vic 3000

This has gone to DISPUTE  
 D/98/3. Any papers dealing with  
 1800 problems should be passed to  
 me for dispute resolution.  
*A 17/2*

Dear John

Mr Alan Smith - Dispute 1800 Charges

I refer to your letters of 28 October, 1997 and 17 December, 1997. I apologise for the delay in responding in writing to your office.

Telstra has examined the information forwarded by your office with regard to Mr Smith's 1800 telephone service and is currently conducting an investigation into Mr Smith's complaints. Telstra staff have visited Mr Smith to discuss the matter and your assistance is required to locate relevant documentation previously referred to the TIO by Mr Smith. Ms Lyn Chisholm has been in contact with your office about this matter.

These investigations cover the period 12 May, 1995 to 19 December, 1997 when the telephone service was disconnected at Mr Smith's request. Telstra will not be investigating complaints relating to the period before the Arbitration Award that was handed down on 11 May, 1995 as Telstra considers that this matter was included in the Arbitration and is finalised.

With regard to your query whether the matter was not addressed in Mr Smith's Arbitration, Telstra recalls that Mr Smith did raise issues relating to his 1800 telephone service in his claim documentation, however, pursuant to the rules of Fast Track Arbitration, Telstra has returned these documents to Mr Smith and therefore we are unable to make comment on the specific matters raised.

L-H



Further, Telstra responded to investigations undertaken by Austel on 16 October, 1995. This response related to correspondence from Austel dated 4 October, 1994, 1 December, 1994 and 3 October, 1995. This response addressed Mr Smith's concerns relating to Telstra's billing of 1800 telephone services and also the specific instances of alleged overcharges that were raised. A copy of this letter is enclosed for your information.

I note that in Mr Smith's correspondence addressed to your office, many of the issues he has raised relate directly to the Arbitration. Telstra considers that it is not appropriate for it to respond to complaints directed at the Arbitration or the parties involved in the Arbitration process aside from Telstra. Given this Telstra is unable to respond to many of the issues raised by Mr Smith.

I attach for you a summary of investigations to date. It is envisaged that it may take a number of weeks to retrieve archive information and conduct an analysis of the call data associated with the 1800 telephone service. Your assistance in regard to the documentation forwarded to the TIO by Mr Smith would be appreciated.

Telstra will provide further information to your office as it becomes available.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ted Benjamin', with a stylized flourish at the end.

Ted Benjamin  
DIRECTOR, CONSUMER AFFAIRS

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**FILE NOTE***Legal and Professional Privilege Applies - Telecom Confidential*

**FILE:** MR ALAN SMITH  
**FROM:** LYN CHISHOLM  
**SUBJECT:** BILLING DISPUTE 1800 TELEPHONE SERVICE  
**DATE:** 16 JANUARY, 1998

On 14 January, 1998, Lyn Chisholm and Phil Carless of Telstra's Customer Response Unit met with Mr Smith to examine documentation in relation to his complaints lodged with the Minister's Office and the Telecommunications Industry Ombudsman regarding his 1800 telephone service.

Mr Smith in these complaints had made general allegations with regard to overcharging of the 1800 telephone service, however, Telstra had not received any supporting documentation along with his complaints.

In telephone discussions with Mr Smith, I advised him that in order for Telstra to address his claims, documentation supporting his complaints would need to be forwarded to allow Telstra to fully investigate the matter.

Mr Smith raised concerns with regard to the matter and the Arbitration and I advised that I would be investigating any instances he put forward since the conclusion of the Arbitration. Mr Smith stated that he had evidence of instances that spanned through the Arbitration and that the problem was not addressed in the Arbitration and further that the same instances continued after the Arbitration.

I suggested that we meet so that Telstra could view the documents he was referring to and work at resolving the matter from there.

**Meeting Notes 14 January, 1998****Present at Meeting**

Lyn Chisholm - Telstra  
Phil Carless - Telstra

Alan Smith - Cape Bridgewater Holiday Camp  
Ray Whitworth - Observer

Alan Smith explained that he had attempted to have this matter addressed in his Arbitration and via Austel and the Ministers office for quite some time. He believes that this issue was not addressed in his Arbitration although Telstra had given an undertaking to Austel in November, 1994.

I explained to Alan that it was my understanding that at the time Austel wrote to Telstra, the Arbitration was in process and that Telstra had written back to Austel and the Arbitrator that it believed the matter would be addressed in the Arbitration

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I then explained to Alan that Telstra had replied to the letter from Austel dated 4 October, 1994 and to further letters from Austel on this matter dated 1 December, 1994 and 3 October, 1995 and in this provided a response to his complaints of charging discrepancies and short duration calls on the 1800 telephone number.

Mr Smith put forward two copies of the Lanes Resource Unit reports. One that had been forwarded to him as part of the Arbitration and one that had been obtained from Dr Hughes's office by mistake when he collected his Arbitration documents.

In what appeared to be a "Draft" of the Lanes report, a paragraph appears relating to Mr Smith's billing complaints, that an addendum report was to be provided at a later date otherwise the report is complete.

Mr Smith stated that the issued report did not include the addendum report nor did it make any reference to his 1800 complaints.

Further Mr Smith produced various printouts of CCAS data in comparison with his Telstra accounts. In many instances the calls add up however, in some cases there appeared to be differences in the duration of the call times.

Mr Smith also provided Telstra accounts that showed an overlap in the time of calls.

Mr Smith stated that there were also discrepancies in details taken by the Commonwealth Ombudsman. He advised that he had asked the Commonwealth Ombudsman to only use the 1800 telephone number when contacting Mr Smith. In the Assessment Documentation for Mr Smith's claim for compensation for FOI matters, Mr Smith states that there is a large discrepancy between the number of calls listed by the CO as being made to Mr Smith and the number of calls he had been charged for on the 1800 account.

I note that the examples given by Mr Smith at the meeting spanned the period of the Arbitration and after the conclusion of the Arbitration.

I advised that Telstra had not seen copies of his examples and had not been able to clearly respond to his complaints without being able to examine the documentation he had put forward at the meeting.

Mr Smith advised that he had provided all details to the TIO office, I responded that we may not have seen all the documentation he had put forward and that the TIO at this point had not raised a formal dispute or complaint regarding the matter.

I advised Mr Smith that I would seek copies of any additional information that they may have with regard to his complaint.

Mr Smith advised that he would provide me copies of all documentation that he had with regard to the 1800 number and copies of the documentation he had produced at the meeting. Mr Smith advised that he would provide this material to me during the week beginning 19 January, 1998.

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I advised that once Telstra had received the information, further investigation could be carried out in the matter.

Mr Smith again enquired about the matter of the Arbitration. I again advised that I would be examining the documents with regard to complaints after the Arbitration, and that a further response with regard to the Arbitration would be provided.