

**CAV  
CHRONOLOGY  
LGE**

**Exhibit 1 to 47**





**Faye & Alan  
Separate October 1989**

## 4. The iceberg revealed ...

F.O.I. documents, internal TELSTRA letters written on 15 August 1991, include "i/c callers are receiving engaged signal when it's not e.g. two callers from Collingwood PM 14/8/91. This has been a continuing problem and he is losing a lot of business. I said it appears from the fault history that the problem may be in the exch. and that the next RCM 21/8 would solve these problems ..."

and

"there are only five lines Portland - Cape Bridgewater. If all are busy caller gets a long tone. 14/8 7.30 - 8 p.m. 5 busy, 8 - 8.30 p.m. 4 busy. - RCM will fix this problem."

John Blackie's communication (A40558) to Greg Bannister on 2 February 1994 provides further details of my telephone faults.

Bannister, Greg

From: Blackie, John  
To: Bannister, Greg  
Subject: Cape Bridgewater  
Date: Wednesday, 2 February 1994 11:33AM

Greg,

The information we have on Cape Bridgewater is as follows (mostly extracted from report):

- i) LTS Melbourne were aware of the problem in early 1990 as Optocoupler measurements were documented on file dated 13.02.90. (ref p34)
- ii) Victorian Optocoupler measurements were taken from Geelong, Ballarat, Frankston, Windsor and North Melbourne. North Melbourne data used in the report to support claim that Golden Messenger was unaffected by A736 Loop Mux. (ref p13). The Cape Bridgewater LoopMux was not included in this round of measurements.
- iii) Tong advises me that to his knowledge, LTS Melbourne did not circulate any information on the problem until the Work Specification was finalized in October 1990.
- iv) The Cape Bridgewater Loop Mux was upgraded between July and December 1991, after it was removed from the Cape Bridgewater link.
- v) The Cape Bridgewater customer had documented complaints of call dropouts from 12/89 to 12/91, the later date some 7 months "after" the A736 loop mux had been replaced by the RCM. (ref Source file).

The question remains - why did it take one year for the Cape Bridgewater Loop Mux to be upgraded from the issue of the Work Spec. Tong says the OIC of Portland believes that the equipment was not touched prior to the upgrade.

I have attempted to contact the Portland OIC to check on LTS circuits regarding this problem. (OIC - Rod Smith (055) 621067). Unfortunately, Rod is away today and no one else can help. This can be followed up tomorrow.

Tony Black - Portland  
Site Operator - Haverhill  
Lee Hartley 604721067  
(055) 622275

1174

67267

Alan Smith

an smoth rang 15/10/00 re service

ic callers are receiving engaged signal when its not p.g two calls from Coltingwood

PM 14/8/00

this has been a continuing problem and he is losing a lot of business

I said it appears from the fault history that the problem may be in the exch and that the next RCM 21/8 would solve these problems but that I would check this out with the techs

I also said we would have a look at the service now to try and get it working correctly until cutover

reports:

service was fully upgraded through SIDs and phone + transceiver replaced

they are not positive on causes (specific faults correct are noted on leopard) Extensive

tests on ic STD have been done and no fault found

units put on a couple of months ago how no fault

there are only five lines portland - cape/bry if all are busy caller gets cong here

14/8 730 - 8 pm 's busy' 8 - 830 pm 's busy'

CM will fix this problem

## Telecom Secret

C04006

### Issues Involved During the Resolution - Factors Considered

1. Alan requested \$150k
2. Chances of legal action - high
3. Chances of media action - 100%
4. Poor performance of Telecom:
  - historically
  - March <sup>2nd</sup> problem
  - Local Portland problem fixed in October
  - wiring and cabling issues
  - RVA on congestion
5. Slow resolution of past problems both technical and claims
6. COT involvement:
  - chances of class action
  - chances of mass media action
  - chances of membership growth
    - Adelaide Pizza
    - Mt Gambia
    - Portland
7. Evidence of problems:
  - Many letters stating the problem of not getting through to Alan Smith
  - People prepared to make statements of problems
  - Claims that Alan had rung himself from his Goldphone and not got through
  - Austel and Ombudsman both had trouble getting through
  - Many claims which might be difficult to substantiate in court but would be credible in the media
  - Viability of business for the future - increased bookings since the service

Period of time
8. Costs incurred:
  - Additional phone calls to chase up business - about \$1000
  - Legal costs - about \$1000
  - Camps prepared but not run
  - Advertising
  - Time
9. Alan's time and other consequential costs - health, stress, etc

## Telecom Secret

C04007

10. Loss of business:
- Camps lost because party could not contact Alan (evidence in letters - \$10,000 loss of profit)
  - Extrapolating - about \$40,000 over a period
11. Loss of partnership:
- Alan claims \$100,000 loss because he had an opportunity to sell a share in his business but this opportunity was lost because the potential partner stated he could not contact Alan Smith initially and lost faith in the telephone service available - hence withdrew his offer
12. Possible legal costs:
- If Alan took legal action Telecom would incur significant legal costs to defend it - about ?
  - If Telecom lost, we could also incur Alan Smith's costs
  - Estimated what possible bill?
13. Inquiry costs - both Austel and Ombudsman's Office has been actively involved. Enquiries are ongoing. Cost of ? - about <sup>Saving</sup>
14. Cost of arbitration - Mr Smith wanted to use an independent arbitrator to resolve the dispute - cost in a case in Sydney \$25k
15. Management time - I have spoken to Alan Smith regularly (daily) over a period. I began making appointments for when I would ring him - he nearly always rings me prior to the call. When I did not ring him daily (even if I was not scheduled to) he wrote to Frank Blount and Doug Campbell or both. He had regularly rung Doug Campbell's office (Judy Lanstrom) several times a week and Austel and others in Telecom. This was despite my setting up a regular contact point (Mark Ross in Ballarat) for him and a specialist diagnostic technical manager (Bruce Pendlebury). Mark spoke with Alan Smith once a week at least. Bruce averaged 5-6 calls a week to and from Alan Smith. He also contacted the Area Manager, Don Lucas, on a regular basis. Don also visited Alan Smith at Cape Bridgewater. This was going to continue forever if all matters were not resolved.
16. Legal position - Mr Smith's service problems were network related and spanned a period of 3-4 years. Hence Telecom's position of legal liability was covered by a number of different acts and regulations. The immunity claimed has never been tested in court and the current immunity from paying loss of business compensation depends upon Section 8 of the BCS Tariffs lodged with Austel. This is probably the least clear of the immunities. In my opinion Alan Smith's case was not a good one to test Section 8 for any previous immunities - given his



## Telecom Secret

C04008

evidence and claims. I do not believe it would be in Telecom's interest to have this case go to court.

Overall, Mr Smith's telephone service had suffered from poor grade of network performance over a period of several years; with some difficulty to detect exchange problems in the last 8 months.

In the media Telecom would not have looked good at a time when we are working hard to improve general customer perceptions.

In a legal battle, Telecom's chance of winning would have to be about 50/50. The bad publicity for Telecom would have been significant.

In my view were Alan Smith to win a legal battle he could have been awarded payment as high as \$40,000. If we went to arbitration a payout of the order of \$80,000 would not be out of the question; with costs of setting up the arbitration extra.

In the interests of expediency and Commercial judgement I considered it better to reach a commercial settlement.

Mr Smith's communication arrangement is questionable:

- other ways eg second line, fax, 008, etc of contacting him not set up
- use of answering machine improper or incorrect
- answering arrangements when Mr Smith was not there *not satisfactory*
- Telecom's defence in some doubt on causality

*There is no payment note received at the time of settlement. Alan Smith do was not prepared to provide both substantiation of his claim.*

*Norman Pittard*

5

Another internal Telstra document notes "As a result of the investigations into difficult customer complaints and associated reports it has become apparent that the present RVA for incorrect numbers requires revision". This memo refers in particular to the message "The number you have called is not connected or has been changed. Please check the number before calling again. You have not been charged for this call." This confirms Telstra's acknowledgement that serious faults existed, particularly since the author of this memo goes on to say "....this message tends to give the caller the impression that the business they are calling has ceased trading, and they should try another trader."

Internal Memo

**Telecom**  
AUSTRALIA

To: [Redacted]  
[Redacted]  
[Redacted]

From: [Redacted]  
[Redacted]

Subject: Change to Network RVA

File: [Redacted]  
Date: 3 November, 1993

Dick: [Redacted] Don Pitt

Customer  
Customer Service Planning and  
Development

10th Floor  
40 Creek Street  
Sydney NSW 2000  
Australia

Telephone 02 957 8572  
Telex 61224  
Facsimile 02 221 7234

Nick:

As a result of the investigations into difficult customer complaints and associated reports, it has become apparent that the present Recorded Voice Announcement (RVA) for incorrect numbers requires revision. The RVA in question is worded:

"The number you have called is not connected or has been changed. Please check the number before calling again. You have not been charged for this call"

The problem arises when equipment or customer faults cause customers who are calling legitimate numbers to be connected to this message. In a business environment, especially in these times, this message tends to give the caller the impression that the business they are calling has ceased trading, and they should try another trader.

What is required is a less conclusive set of words that make allowances for the fact the customers are connected to these messages when in fact the required number is operational. Once we have a set of words that are agreed to be all sections of the corporation, and market tested, Network Products will implement the new RVA in association with providing reference numbers on all such messages. These reference numbers will aid in fault location.

The sample message is indicative of what I feel the flavor of the new RVA should be, and is not meant to be the finished article.

"Telecom regrets that we have been unable to connect this call. Please check the number before calling again. The following reference number should be noted and reported to Telecom should the difficulty continue. Reference 142"

This needs to be implemented in the near future to reduce customer complaints, aid fault finding and reduce rework. Your immediate attention would be appreciated.

Regards  
[Redacted]

C00757

Anyone who uses a telephone has at some time reached a recorded voice announcing "The number you are calling is disconnected" or something similar. Within the telecommunications industry these messages are referred to as RVAs or Recorded Voice Announcements (refer Glossary). Among the multitude of FOI documents that I received in 1994 was a copy of a Telstra internal e-mail dated 26/9/93, which refers to the need to "have a very basic review of all our RVA messages and how they are applied." This e-mail goes on to say "... I am sure when we start to scratch around we will find a host of network circumstances where inappropriate RVAs are going to line." Obviously Telstra were aware of RVA problems long before I experienced them.

*W.D.W.* 73

Holmes, Jim

From: DPInel  
To: EBlake  
Cc: DPInel; AHumrich; JHolmes  
Subject: RVA Messages  
Date: Sunday, 26 September, 1993 2:12PM

Ed.

We need to have a very basic review of all our RVA messages and how they are applied. At the moment, a customer who dials a legitimate number which is redirected to a non-existent number gets a "the number you have dialed is incorrect or has been disconnected" message. This is patently wrong and whilst the "old school" continues to tell me this is all the customer's fault, it is clearly unacceptable. I have only quoted one common example - I am sure when we start to scratch around we will find a host of network circumstances where inappropriate RVAs are going to line.

Can you please have someone identify the current network RVAs and where they are applied. A review of these could identify some that are better replaced with redirection to an operator for assistance, some where we should repeat the number dialed to the A party, some where the words should be changed for clarity and accuracy and some where the conditions serviced by a single RVA need to be split to a number of varying options.

On a related point, I think we need to review busy and congestion tones and consider replacing with a voice message. At the moment, many customers cannot readily differentiate the tones (I have trouble myself) and this may be causing some unnecessary problems. We already put a voice announcement on congestion in the Trunk network so maybe a similar approach to the junction and local networks is appropriate.

Don

A03544

1990

January 1st

Yasemin Sevik Turkish Women's Group. Complaints about Gold Phone not working.

January 6th

Portland, I rang my Camp and got an engaged signal. I had only access to the phone in my office. Office was locked.

January 13th

Rang 1100 and complained that a friend, Margaret, could not get any answer from our phone. It never rang at the Camp as I was in all day. Operator told me no fault shown at exchange. !

January 21st

Two customers report line engaged from 11.00 am till 12.30 pm. Telecom surface next day. They experience a funny noise on phone, also Bendigo faults 1100 exchange have same noise.

January 29th

Telecom come out to check Gold Phone and office phone. I was told loose wire in Gold Phone. Office phone is OK, no fault found.

February 4th

Yooralla Children's Home blasted us about Gold Phone not working. Not good for children or staff. We again paid money back to customers saying money fell through.

Contacted 1100 at 11.00 am we were told both phones would have to be checked by Portland technical staff.

Portland technician found no problem.

February 12th

Monivae College, Mr. Hackett, said he tried to confirm student numbers on Thursday 8th and had to wait for some time before getting through.

Two students repoted Gold Phone once again out. (I have not listed when fixed.)

February 22nd

Complaint by Junior Principal that they had trouble contacting Camp to confirm numbers and to organise activities. This was the week before.

March 4th

Mildura High School said they had trouble contacting camp.

1990, cont.

**March 16th**

Complaints about customers unable to make contact. I rang Portland Exchange and was told by technical staff no fault found.

**April 9th**

Thomas Moore College, Marie Camp Co-ordinator tried to ring from Mt. Gambier to tell of arrival. Could not get through. Constantly engaged.

**April 12th**

Ms Penny Besanco, Co-ordinator of Family Group from Adelaide, said constantly engaged.

**April 16th**

Jack from Melbourne claims I never answer my phone.

**May 5th**

I went into Portland and rang my phone to hear engaged signal. No person was at the Camp. Contacted 1100 and was told to wait till Monday for local technician to investigate.

By this time I have started to wonder where to go. Monday at 1.40pm local technician arrives. No fault found.

**May till June 30th**

Had been sick - worried about the bookings etc. Decided not to enter complaints. At this time I was getting very tired.

**June 31st**

Tennison College complained their Co-ordinator had tried to make contact with Camp. We had not responded to phone.

**July 12th**

Sofie Chanoff, Russian Scout Group, did not arrive on this day. I am led to believe they had tried to make contact on many occasions thinking I was never at the Camp. This one cost approx. \$1,400. It was a self-catering camp for three days.

**August 10th**

Frank Saulsbury co-ordinator said we were engaged most of the week when he tried to phone from Hamilton.

**September 10th**

Monivae College found us engaged when trying to ring.

**October 23rd**

Yambuk Primary School said it appeared we were always not at the camp.

1990, cont.

November 8th

Camperdown Primary School found us always engaged when trying to ring.

December 19th

Gold Phone out again. Rang Portland. They came and fixed the same day - (that was good of them!)

December 31st

Brenton Smith, my son, could not get through to camp.

1991

January

At approx. 1.50 pm the phone dropped out when talking to a customer. No tone at all. Waited for customer to ring back. She did not! I think she thought I had hung up on her.

January 8th

A Mr. Coyne complained from Melbourne engaged yesterday as well as today. Are we open for business or not! Also phone dropped out at 1.40 pm today.

January 12th

Brenton Smith, my son, is getting worried about me and my phone. How do I keep going? is all he asks about. He had yet again engaged signal all day today. That burring is getting us both down!

January 15th

Margaret Beare said she rang many times today and I was engaged.

January 16th

I had two drop-outs today. One at 11.00 am and another at 2.45 pm. Also another customer from Portland said we were engaged when we were not. Kris Berbartizt had tried for some time.

January 19th

I rang the Camp this afternoon and we were engaged. I decided not to ring like this again. I was getting myself into a state!

January 21st

Bill McBurr could not get through to Camp at 12 midday. Phone rang out.

January 22nd

Telecom found a fault, I am yet to know what they found. A Doreen rang at 11.00 am. The phone dropped out twice, one at 11.00 am, the other at 1.45 approx.

7

1991, cont.

**January 28th**

Sri Lanka Christian Group, Mr. Ambrose said he tried to ring Camp but no answer. Four staff were on at this time as we were catering for 150 persons for four days. No one heard the phone.

**January 29th**

I remember thinking this day (in my diary) when is someone going to believe me! I am getting frustrated! I again had yet another drop-out, at 3.30 pm.

**February 3rd**

Maggie from Melbourne said what am I doing on the phone all the time. She rings often and can never get me.

**February 4th**

I broke my promise to myself. I phoned yet again from Portland and the line was engaged. This was at 11.00 am.

**February 8th**

Mr. Bob Shaw, Junior Principal, said today he tried during last week four times to ring the Camp (Monivae College).

**February 9th-10th**

Singles weekend. A group from Melbourne had a great time, except that bloody Gold Phone was out. I had to let 34 persons use my office over this period to ring in and out.

**February 12th**

Ms Karen Gladmen also rang from Portland and said the Camp was engaged at 11.00 am. I was in the kitchen at this time doing morning tea for Hamilton High School.

**February 14th**

Things seem to be getting worse. I again ring Hamilton Exchange to ask them to send a technician out from Portland. I had another drop-out. Technical staff cannot find fault!!!!!!

**February 19th & 20th**

Engaged complaint by customer at 11.00 am on the 19th, and again from John Fabics, Melbourne, that he tried to ring from 3.00 pm to 3.30 pm.

**February 21st**

Circus time had arrived. Another type of complaint had started. Two rings then nothing, then one ring then nothing. I did not list the times this day.

**March 16th**

Football Club, Warrnambool South, had tried to make contact all day and night. No answer on the phone. I was home all weekend.

**May 20th**

I have written obscenities in my diary. Could not get out on the phone at approx. 1.30 pm. I again rang a Ms Robin---- at Hamilton and just about cried on the phone. Get a technical man that knows something about phones.

**June 6th**

Mr. Mick Morrow Camp Co-ordinator from Portland Tech., tells me I don't answer my phone. Also I seem to always be busy. Late in the afternoon I hear a funny noise on the phone.

**June 10th**

I have entered in my diary constant complaints from Melbourne. No names, just in brackets (SO MANY TIMES).

**June 13th, 14th & 15th**

Obscenities yet again entered in my diary about Telecom over the three pages of these days. I feel at my lowest ebb in many a year.

*While typing these extracts from my diaries I feel so angry, so sad that an Australian Utility could be so heartless. I am today (Sunday, 29th May, 1993) wondering how I have pulled through all this.*

**June 17th**

Portland technicians say they have sent report to the exchange for further progress.

**June 25th**

Maggie complained to Telecom that phone is crook.

**June 26th, 27th, 28th**

Engaged.....Engaged.....Engaged.....!!!

**June 28th**

TELECOM HAVE FOUND FAULT IN EXCHANGE!!

**July 1st**

Margaret of the 1100 Bendigo Exchange heard the funny noise on the phone, a burring two days prior, yet no record of this. How can this be so?

**July 8th**

A Mrs Ferguson from a Melbourne Group tried to ring all last weekend. We seemed to be engaged most of the time. I have not heard from this Group again!! I WONDER WHY!!



1991, cont.

**July 18th**

Lutheran Church group tried to ring yesterday. Dead phone. This group were from Hamilton.

Portland technicians came out today and replaced our phone.

**August 2nd**

Had another fight with my partner, Karen. Why didn't she notice the time of today's drop-out! "What for," she says, "no one listens anyway!"

Technician from Portland tells us they checked our line on the 5th August and found no fault.

**September 23rd**

I have just a time entered in my diary of 6.50 pm. I think this was a drop-out, although I am not sure. Karen, my partner, and I have agreed not to fight over the times of our telephone faults. It is getting us both down.

**October 8th**

Tennison College, Mt.Gambier, tells me they have rung many times without making contact. I do not like to ask now what problem as I am starting to think people are seeing us as nuts!!!

**October 9th**

Portland technicians tell us a 1100 fault had been lodged yesterday at Bendigo, but they had found no fault.

**October 13th**

I am told by a Single Club in Hartwell that they heard a recorded voice saying this number (055) 267267) which is the Camp number, was not connected. I reported this to Portland and Hamilton exchanges. They found nothing.

**October 24th**

Robert Palmer, Camp Co-ordinator from Heywood Primary School, said he heard a recorded message on our phone - a repeated voice, as he rang three times, that we were not connected (055 267267). I reported this to Hamilton Exchange and they found nothing!!

**October 30th**

Glenthomson Primary School Principal complains that he tried all day the previous Sunday to make contact with the Camp - to no avail. I have entered in my diary "What Now!!"

**November 7th**

Talbot Primary School, the Camp Co-ordinator in passing said she had tried on a particular day to ring us at Cape Bridgewater, but we never seemed to answer the phone. I again have an entry in my diary apart from the complaint, "Christ All Mighty!!!"

1991, cont.

**November 21st**

Robert Palmer again heard a recorded voice that (055 267267) was not connected again, three times. He then rang 1100 and they say they found nothing.

**November 26th**

Mrs G. Crittenden from Haddon & District Community House, informed me today that she had tried just before this conversation to ring the Camp and had received a recorded message that we were not connected. She rang 1100 and they said there was no fault to be found. She then rang straight through.

**November 28th**

Mrs G. Crittenden from the Haddon Community House yet again experienced a repeated voice on a recording that (055 267267) was not connected.

I contacted the Hamilton Exchange and conveyed my views to a lady. I was not too polite to her.

**December 1st**

St.Johns Ambulance Social Club tried to ring twice and got the same message - that we were not connected.

Karen, my partner, and I have another fight over another drop-out on the phone. She thinks 3.20pm-3.30 pm, what the hell is going on!! Two persons start to argue over a bloody phone service!!

**December 12th**

Mrs Johnston - I am not sure where from, but it is listed in my diary - sent brochures to Ringwood Lutheran School and when she rang us back she heard a recorded voice that (055 267267) was not connected - twice in a row.

**December 23rd**

We have two more drop-outs at 11.15 am, and 1.20 pm, and also a funny burring at 11.00 when we dialled out.

**December 31st**

Maggie from Melbourne rang to wish me a Happy New Year. Again she said we seemed to be engaged a lot. Why the hell can't I do something about it!!!

**1992**

**January 7th**

Painters Group from Melbourne arrived. One artist lady said she had tried for at least three hours the week before to make contact, and finally gave up.

Today, Karen found me crying. I was finally understanding what my business was suffering. It may have been what that artist had said. She gave up ringing in the

1991, cont.

**March 21st**

Mr. Watson from Melbourne had tried to make contact with the Camp at least five times. He had rung the Camping Association in Melbourne to see if he had the right number. I have not heard from this chap since.

**March 23rd**

Would you believe this. Four drop-outs today: 1.50 pm, 2.55 pm, 4.40 pm, 4.45 pm!

**March 25th**

Complained to Hamilton Exchange about these drop-outs. They sent yet again another Portland technical man and again he found nothing.

**March 30th**

Gold Phone is reported to (Bendigo) by myself. It has a burring sound and nothing else. I am told a technical unit cannot come out till Monday, 1st April.  
Is It April Fool's Day!!!

**April 9th**

Portland technicians came out today. They find nothing and I have this feeling they think I am imagining these problems, or is it they know we have a problem - but where?

**April 11th**

Had a fight with my partner over why she did not record the time of a drop-out. Poor woman!

**April 13th**

Delacombe Community House came for a week. The organiser said they tried to make contact from Ballarat on quite a few occasions but we never answered the phone. (My diary in words, "So What") I have started to now live with this problem.

**April 15th**

Maggie from Melbourne says "Why, Big Shot? You usually get things fixed. Get that bloody phone company to do something with your phone!" She had once again been trying to ring me during the past week without success! What's new!

**April 30th**

I have started to crack, I think! In my diary I have written "Where are all the phone calls? I'm told all the time 'Busy, busy, busy!' Where or who do I turn to?"

**May 13th**

I again rang from town outside the Chicken Bar. Engaged at 11.00am and there was no one at the Camp. I had come in to see friends.

**May 20th**

My phone was dead when trying to ring out. I rang Hamilton Exchange to get Portland technicians out to the Camp. Fixed in Portland. Did not come out.

1992, cont.

end. I knew now why our advertisements, promotions, had not borne fruit. I was losing my partner as well and could do nothing to stop this roller coaster.

Telecom had found another victim. How harsh is that statement, but how true to life those words are!

January 11th

Ballarat Community Group East, arrived, and during this day I had another drop-out at 3.15pm, and another at 3.40pm.

January 17th

I rang Hamilton Exchange to inform them that we had another fault on our line. I was not contacted by the Portland Exchange to verify.

February

Haddon Community Group leave. I am assured by Mrs Crittenden she reported both times to 1100 that a recorded voice was heard, and the Bendigo 1100 had not reported anything to me on this complaint.

February 14th

A Mrs Kempton complains about us not answering our phone when she rang so many times during this week. I explained we had a telephone problem, but got the feeling that she thought we were telling a lie. We never heard from her again. Surprising ???!

February 17th

A relieving Camp Co-ordinator from Hamilton High School informs us (What's new!!) that he had not been able to make contact early last week. It appeared the phone was engaged.

March 9th

Peter Turner from the Australian Social Centre, Hartwell, rang to tell me he had tried to make a booking for his Single Club. He had heard a recorded voice that we (055 267267) was not connected. He tried three times in all to make a connection. He rang 1100 and they got him through, yet they never reported this fault to Melbourne.

March 13th

I have again written obscene comments in my diary. Yet another recorded complaint. I have no name to this complaint.

March 16th

Mrs Vander Savill, Historian from Heywood, had twelve guests at her museum looking for accommodation. She rang the camp this day and heard a repeated recording that (055 267267) was not connected. She tried again and the same thing was heard again. She later has explained that she thought I must have run foul of Telecom and not paid my phone account. I then understood, as I have before, what effect this recording and the bad service must be doing to my business.

9A

1992, cont.

**March 16th**

Portland technicians find a fault in my phone. They tell me on file that that was the trouble. I still have this documentation.

**March 17th**

You had better believe it! Telecom today informed me they have found a network problem and this is what was causing the recorded messages. Yesterday I asked how come it was my phone. I have yet to have an answer to this question.

**March 20th**

Two English backpackers had rung from Alice Springs today to inform me that due to a cyclone they would be late arriving by bus in Melbourne. They informed me they had heard a recorded message that (055 267267) was not connected. As they were new to Australia they had wondered if we were, in fact, here at all!!! Karen and I both wondered if we were there, or here, and I still do wonder if I am all here!!!

These backpackers rang an operator who likewise got the same recorded message, so the Telecom operator rang Melbourne, who likewise got the same message. How could this be so? It was fixed three days ago - or was it! Well, we finally made contact and this couple knew they would have a bed when they arrived in Victoria.

**March 23rd**

Portland Tech. arrives again, and once again Mr Mick Morrow asked whether we were still having trouble with our phones. Knowing why I still asked him why, and he had had trouble making contact with me during the last week.

**March 25th**

Backpackers arrived at the Greyhound Bus Depot in Melbourne. they rang Karen to find out information. You guessed it - a recorded message that (055-267267) is not connected. THEY TRIED THREE TIMES and then rang a faults operation at 1100, who likewise rang and heard the message - another Telecom employee actually heard it. I am led to believe that she rang again and got the very patient English tourists a connection. They have arrived in Victoria!!

**March 26th**

1100 from Melbourne must have contacted Portland Exchange as the technicians came out yet again - to no avail. No faults found.

**March 30th**

We decided to enter all fault calls on our year planner above the phone as they started to get a lot worse.

9A

1992, cont.

As this document has been taken from my diary records all other records of drop-outs, complaints etc. have been entered on my Year Planner.

I have letters on record of two individual people - one a school teacher and one an Australian social club, both complaining that the many times they have tried unsuccessfully to contact us indicates, in their estimation, that our business is folding up. Reading these two letters I realize that I am folding up too!!

Telecom have a record of these numbered faults from April to September, including drop-outs, constant engaged signal reports, dead phone, complaints that we do not answer our phone. The total number is 56.

We have letters from Clubs, Schools, Church groups, and private persons, who are aware of these faults.

I have two letters from Telecom management stating that my phone service from September 1992 is now up to Network Standard. It was on these two documents that I allowed myself to be put in a position where I had to take lesser compensation than that I had shown Telecom I had really lost, not only in a monetary sense but in the future goodwill of my business.

On 13th December I was led to believe my troubles were over as I had talks with the Victorian and Tasmanian General Manager, Commercial Division, Rosanne Pittard, and was given this assurance.

It mattered not that I told her I would be paying out my partner, Karen Gladman, because she had weeks before been close to a nervous breakdown. This lady had come in to the business with a financial figure close to that which I had received from Telecom as a compensation payment. If Karen had not injected this money into the business when she did there would have been no business today.

I accepted this lesser value for the sake of decency. After all, I could build on a half business now that my phones were fixed!

The health of a human being that had helped me was my priority. I could after all build on.

**Welcome to the real Telecom World of deception and lies!!!!**

I did not start entering anything into my diary until December 30th, when it all started again!

No sooner had I started to advertise, send out literature, that these troubles I had thought were behind me commenced yet again. Believe it or not, by 4th January I had broken down and wept!!

**December 30th**

At 1.30 am, 10.45 am the phone rang just twice - just as before, then nothing.

ITEM (I)P.O. Box  
Portland 3305  
24/7/92

To whom it may concern,

there have been several instances over the  
K( ) year when I have attempted, at length, to contact Mr. Alan Smith  
at the Cape Bridgewater Holiday Camp and Convention Centre without  
success.

In the evenings of October/November 1991 I phoned at least  
six times to get the recording that the number was not  
connected. These calls were from my private home.

In school time during March/April 1992 I phoned to ascertain  
dates available for the Heywood Grade 4 camp and again received  
the message that the number was not connected. I eventually  
drove to Cape Bridgewater to check availability. When I rang  
from Heywood to confirm bookings I was not able to get through  
in at least ten attempts over three days. Again the recorded  
message. On the last instance I rang enquiries and the telephonist  
tried to get me through to Bridgewater, near Bendigo.

I remain  
Yours Sincerely  
Robert Palmer

# Haddon & District Community House Inc.

12 FEB 1992

Gladys Crittenden  
Haddon + District Youth Work  
P.O. Box 238  
Sebastopol PL 359668.  
3356.

To whom it may concern.

Dear Sir, our group rang the Cape Bridgewater Camp on a number of occasions. Mainly from November 1991 through to February 1992, to try and book and finalize our camp arrangements. When I rang the number given to us we only got a taped message from telecom to say that this number had been disconnected.

07 MAY '93 12:48 ACA MELBOURNE 03 4292259

P.20/23

From telecom to say that this number had been disconnected. I wrote to the camp and told the manager of the problem and to confirm his phone number. When we rang again we still got the same message ~~as before~~ about being disconnected. We rang telecom twice to complain about this problem, but nothing seemed to be done to rectify the problem. Fortunately we did persevere by phone and correspondence to book our camp and had a very good time.

Yours Sincerely,

Gladys W Crittenden



**AUSTRALIAN SINGLES CENTRE**  
1143 Toorak Rd, Camberwell 3124 Ph 8896659 Fx 8893129

2011

5th July 1992


Mr Alan Smith  
RMB 4408  
Cape Bridgewater  
Portland 3306

Dear Alan

Futher to my previous letter in February.

On the 26th of June I rang you at about 9pm and spoke to you, this was not my first attempt as on my previous attempts I received a recorded message as I have in the past. Because I knew of your problem I persisted until I got you, however had I been a new enquiry you would have lost business on this occasion.

Kind Regards

  
Peter Turner

9a



Telecom Australia

Minl

File HA-AC 4/1/18 Subject GRADE OF SERVICE COMPLAINT  
MR ALAN SMITH 055-26 7267

Phone [REDACTED] From [REDACTED]  
CUSTOMER SERVICES MANAGER  
HAMILTON - VIC/TAS REGION

To [REDACTED] NETWORK OPERATIONS  
[REDACTED] - FAULT BUREAU VIC/TAS

[REDACTED]

Please find enclosed documentation in regard to a Grade of Service Complaint from Mr Alan Smith of Cape Bridgewater.

Our local technicians believe that Mr Smith is correct in raising complaints about incoming callers to his number receiving a Recorded Voice Announcement saying that the number is disconnected.

They believe that it is a problem that is occurring in increasing numbers as more and more customers are connected to AXE.

Can you please investigate this problem and provide me with a written reply so as I can forward this to Mr Smith and our local Federal Member, before what is already a difficult situation, gets right out of hand.

[REDACTED]

Customer Services Manager - Hamilton

2/7/92

9B.

On 13th October I complained of four calls that had dropped out, at 1.20, 1.40, 2.00 and 3.00 and a single time when I had answered the phone to find a dead line. The Telstra technicians found, as they had in many instances before, no faults that they could detect.

INCOMING	ANSWERED
END SEIZURE	13:40:40
CONVERS TIME	000673
SEIZURE	13:29:25
DATE	1992-10-13
NUMBER OF RINGS	108
RINGING	13:29:13
13:40:40 H-ON	000001
13:29:25 H-OFF	000001
13:29:23 R	
13:29:22 R	
13:29:20 R	
13:29:19 R	
13:29:17 R	
13:29:16 R	
13:29:14 R	
13:29:13 R	

INCOMING	ANSWERED
END SEIZURE	15:04:03
CONVERS TIME	000172
SEIZURE	15:01:11
DATE	1992-10-13
NUMBER OF RINGS	14
RINGING	15:00:50
15:04:03 H-ON	000001
15:01:11 H-OFF	000001
15:01:09 R	
15:01:08 R	
15:01:06 R	
15:01:05 R	
15:01:03 R	
15:01:02 R	
15:01:00 R	
15:00:59 R	
15:00:57 R	
15:00:56 R	
15:00:54 R	
15:00:53 R	
15:00:51 R	
15:00:50 R	

I informed [redacted]  
03 [redacted] of this on 15-10-92



MR Smith has complained  
that on the 13-10-92 he  
received incoming calls

- at 1.20:
- 1.40 ✓
- 2.00
- 3.00 ✓

and no one was there when he  
answered the calls. - (He drops out  
on answer?)

We had the Elni disconnected at the  
RCM ad was installed at MR Smith's  
house. The CLAs. showed no evidence of above

Postal Address  
PO Box 356  
Glen Waverley 3150

1 September 1992

Mr Alan Smith  
Cape Bridgewater Holiday Camp  
RMB 4408  
CAPE BRIDGEWATER 3306

Dear Alan

We have not had the pleasure of meeting. However I have been briefed on the matters relating to the standard of your telephone service and recent communications between Telecom and yourself. Let me first assure you that we in Telecom are committed to ensure that the service provided to all customers is of the highest possible standard.

I understand that since our recent tests on your service were completed you or your representative met with senior Telecom managers from our National and Corporate offices. I also understand that at that meeting you expressed concerns that your service was not operating at required levels of performance and sought an undertaking that action would be taken to rectify this situation.

Whilst our recent tests indicate that your service is now performing to normal network standards, I am initiating a further detailed study of all the elements of your service and the tests which have been conducted. The aim of this study is to confirm the standard of service you currently receive and to check that there are in fact no ongoing problems. This testing could also involve an additional check of the communications equipment at your premises, if you agree. I anticipate that this study will be completed by early October and I will be happy to discuss the results with you then, should you so desire. Should this investigation identify any faults in the Telecom component of your service they will be rectified in accordance with normal practice.

Let me close by assuring you that I am personally committed to resolving this matter and I am available at any time to discuss your concerns and explore opportunities to resolve our differences. I can be contacted on (03) 550 7500, should you wish to raise any further matters with me.

*Rosanne Pittard*  
Rosanne Pittard  
General Manager  
Telecom Commercial Vic/Tas

ID: RP010902



# Telecom Australia

Telecom Commercial  
540 Springvale Rd  
Glen Waverley 3150

Postal Address  
PO Box 356  
Glen Waverley 3150

Tel: (03) 550 7330  
Fax: (03) 562 1926

18 September 1992

Mr Alan Smith  
Cape Bridgewater Holiday Camp  
RMB 4408  
CAPE BRIDGEWATER 3304

Dear Mr Smith

Thank you for your letter of 10 September 1992 regarding the quality of your telephone service at Cape Bridgewater.

May we assure you that Telecom is committed to providing a quality service for all our customers and this commitment is supported by a technical organisation capable of responding quickly and efficiently to a service difficulty should there be a need.

We believe that the quality of your telephone service can be guaranteed and although it would be impossible to suggest that there would never be a service problem we could see no reason why this should be a factor in your business endeavours.

Should you still be concerned about the ability of Telecom to provide a reliable service may we offer the services of our Area Manager, Mr Mark Ross (telephone: (053) 370 211) of myself (telephone: (03) 550 7330) as a contact should you wish to discuss any current or future issues.

Yours sincerely

Bob Beard  
Service Manager  
Telecom Commercial Vic/Tas

ID: BB180901

## Analysis of 055 267 267 Problems.

b Started: 24/7/1992

### Original Customer Complaint:

Incoming Callers report Recorded Voice Announcement (RVA) "The number you have called is not connected, Please check the number before calling again". Various origins were mentioned. The most recent were Public Telephones at Station Pier. Test calls were made from these PT's by Keith Mc Intie of Payphone services on Friday 24th July and calls were steered through the Digital trunk exchanges

The PT's at Station pier are:

646 2461	Cabinet 646 003
646 3698	Cabinet 646 004
646 5420	Cabinet 646 012
646 5438	Cabinet 646 014
646 5440	Cabinet 646 015
646 5447	Cabinet 646 017
646 5501	Cabinet 646 432

### Previous complaints were:

30/6/92 057981622 was calling 055267275 & couldn't get them therefore contacted 267267 for assistance. [No Fault Found]  
16/4/92 Callers from Greyhound Bus terminal melbourne got RVA. [No Fault Found when tested]  
17/3/92 Melbourne callers got RVA when calling 055 267 XXX [MELU exchange routing data was incorrectly set].

### Other problems:

28/9/92 Congestion incoming due to a Silent EM fault in Portland AXE where by the HMOX-PORX and PORC-PORX routes were autoblocked. [Fault rectified locally]  
2/9/92 a customer at HEYWOOD ARK (Mrs. Savill, 055 271 660) reported RVA on calls to 055 267 267. Other customers in the area reported similar RVA problems. [Testing by Portland staff found an intermittent fault in the Digit storage section of Register 34 at Portland ARF. This resulted in customers occasionally getting RVA or wrong numbers. This would have affected all PORC customers, as well as any customers in ARK's served by PORC. Fault was rectified 7/10/92].

### Analysis of individual reported problems

28th September: 8:31 PM, call from Austel representative (03 4288866) received STD pips then "nothing" on two calls.

CABS data for the A party shows:

03 4288866 A 4 PRBL 9 OCT 92 LIVE P 3  
MISS A E DAVIS CONN DATE 3 NOV 89 ACCOUNT NR: 03 4288866 011  
14 BLOOMBURG ST LAST BILL 10 SEP 92 PER 1  
ABBOTSFORD 3067 REG STMTS

#### ITEMISED & MULTI-METERED CALLS

STD 28 SEP 92 8.29P	Cape Brgwtr 055267267	0:10 N	0.25
STD 28 SEP 92 8.30P	Cape Brgwtr 055267267	0:10 N	0.25
STD 28 SEP 92 8.31P	Cape Brgwtr 055267267	2:11 N	0.50

CCAS data for the B party shows:

Day	Date	Time	Type	No.	Wait Time	Conv. Time	Rate
MON	28/09/92	20:28:43	IA		5	25	0
MON	28/09/92	20:29:30	IA		2	2	0
MON	28/09/92	20:29:59	IA		2	2	0
MON	28/09/92	20:30:20	IA		2	48	0
MON	28/09/92	20:31:29	IA		1	133	0
MON	28/09/92	20:33:57	ONU	013	192	0	L 0

14

R01444

Rang Alan Smith 5/10/92

Came me the following list of faults

① 27/9/92 Between 7.30pm - 8.30pm Calls from his Son (03) 5681824 received engaged signal. Phone not in use.

K04448

28/9/92 Received 2 Calls approx 3.45pm + 3.55pm from unknown STD destination Received STD PWS then nothing on both occasions

② 28/9/92 Amanda from Ansted rang at 8.31pm Received STD PWS then nothing. Called from (02) 4288866 Repeated call immediately, got same result. Then called using Mobile Phone. Got connected but could hear another conversation. Could not break into conversation. Call dropped out after an estimated 10 seconds.

③ Mr. Smith received a letter from ... Lady named Mrs Vanda Savell who lives in Heywood.

She claims 22/9/92 rang 267267 between 10.00 and 11.00 am Received RVA Message. This number is Disconnected.

267267 Rang A 25/9/92 rang from 9.20am onwards 7 times received RVA Message 2 times No Response, No Tones.

Mrs Savell's number is (055) 271660

Mal Ross





Telecom Australia

Telephone (03) 550 7579  
Facsimile (03) 562 1925

Telecom Commercial  
Vic / Tas Region  
540 Springvale Road  
Glen Waverley, 3150.

Reference: Exchange Fault Clearances

23 November, 1992

Mr Alan Smith  
Cape Bridgewater Holiday Camp  
Blowhole Road  
CAPE BRIDGEWATER 3305

Dear Alan

Thank you for your request regarding network fault information which has affected your telephone service number 055 267267.

The network faults found and their impact on your incoming calls are noted below. These faults were repaired permanently at the time of detection.

1. A fault at Windsor exchange in Melbourne was caused by a network program change. This programming caused a network recorded message to be given to some callers and was reprogrammed on 19 March 1992 which fixed the fault. This fault affected incoming STD calls from Melbourne to Cape Bridgewater for a period of up to 3 weeks prior to the fault being fixed. The maximum impact on your incoming STD calls from Melbourne would have been up to 50% and would have depended on exchange traffic at the time of call attempts.
2. Another fault was found in the Portland exchange on 7 October 1992 which was giving local callers wrong numbers or a network recorded message. This fault was found and fixed on that day. The fault was first reported by yourself and other local neighbouring district customers on and after 2 October 1992 but because of its intermittent nature, was not located and repaired until 7 October. The fault was caused by 1 of 40 devices in the exchange called "registers" and according to test call data, affected a maximum of 1.5% of incoming calls between 2 October and 7 October.

Congestion could have been experienced by callers due to a combination of the two faults indicated above and the volume of test calls being generated by Telecom to locate faults. I understand that some of your customers expressed this condition as "getting busy tone" when you were not using the telephone. Test results by our network investigation section indicate that network congestion has not occurred since the repair of the Portland exchange fault on 7 October.

K02803

I have noted your concerns regarding time taken by Telecom over rectification of service difficulties and the changing of your service to business priority. I recognise you have reported service difficulties over a long period of time and particularly since October 1991. These service issues were addressed by Telecom and over 30,000 test calls were generated to detect and repair the problems. The time taken by Telecom to convert your service to business priority in our fault management system was confused by the fact that the billing and order issuing systems already had you indicated as a business since 6 April 1988. The fault management system was updated to indicate business priority on 16 June 1992 and will prevent any further confusion in regard to this matter.

While I fully understand and sympathise with your frustration in having to contact and liaise with many Telecom people in the past, my understanding is that current methods of communication between Telecom and yourself are satisfactory and achieving the results expected by you.

Our recent conversations have lead me to believe that you and your callers are not experiencing any service difficulties at present due to the faults listed above being located and repaired. Would you please confirm this fact in writing to me at your earliest convenience.

Additional precautionary work performed by Telecom where your service was rewired approximately 18 months ago plus the loud sounding alarm installation on 17 November 1992 will also contribute to greater reliability of your service.

I have also arranged for the connection of a new facsimile service to be connected at your premises this week as per your request to me.

On behalf of Telecom, I sincerely apologise for any inconvenience caused to your business and trust that you will continue to contact me with any future requests or concerns that you may have in relation to your communication requirements.

Yours sincerely,



Don Lucas  
Area Manager - Special Products

K02804

15



Telecom Australia

Minute

File 0607921 Subject Problems with Cape Bridgewater Customer  
055 267267  
95 / 0603 - 01

Phone (053) 334411 From MIKE ROBINS

To Graeme Davies 75

Graeme,

It is my understanding of the sequence of events:-

Aug<sup>4</sup>/91 - Cutover from RAX to RCM when? - approx 7/8 mins.  
90% maximum

- Customer Complaints re N.R.R.

16/3/92 - Customer Complaints can't be called

17/3/92 - Problem found at MEL U which would have caused any customer parenting or trunking through MEL U (where digital trunking was used) to have a call failure Customer 053 267267 would not have been able to be rung.

The trunking arrangements for Vic and Interstate is such that MEL U is only one of these major trunk exchanges, other's are Bendigo, MEL Q, Ballarat, Morwell or Moolap (Geelong). If the call was switched via any of these other exchanges, it would have been successful.

The problem does not appear, as first thought, to be a data production error, rather a fault condition quite specific in nature, causing a problem to this code only.

.../2

16

# SERVICE DIFFICULTIES

- FAH history - registered re 1709's  
Check with Peter post 12/16
- Cutover to Rca when? - Likely length of MELLU problem

Chris Doady

- Likely 50% via MELLU path
- Destination that go via MELLU  every one in vic.

Mick Ross 310211

- Compensation  reimbursement

asked about his work?

... identified route.  
Mick Ross spoke with Bruce Walker  
and Guy & Barry's car ran down  
refused to report service.  
He sent receipts for about 2 years  
months only used the ones coming  
to the name of post & service,  
he asked. Next morning

detail to explain the significance of Telecom's failure to adequately advise Mr Smith on matters relating to this issue.

Significance of RVA problem

- 80 The first written communication from Mr Smith to Telecom complaining of the RVA problem was on the 20 June 1992, following on from a fault report made by Mr Smith on 16 March 1993 complaining of this fault. The letter was addressed to the Hamilton Manager of Customer Services. Mr Smith's letter provides an insight into the significance of the RVA problem from the customer's perspective.
- 81 Mr Smith detailed in his letter how an English tourist had informed him of receiving an RVA message after attempting to call the Cape Bridgewater Holiday Camp from Melbourne a number of times in succession on a day in March 1992. The tourist had informed Mr Smith, after eventually getting through to him, that she had received a message stating that *"This number is not connected."* As the tourist had called Mr Smith the previous day from Adelaide, she knew that the camp was in operation and that the Camp number should be connected. The RVA message was obviously incorrect, the call should have been connected without any message being received by the calling party.
- 82 In the letter to the Hamilton Manager of Customer Services Mr Smith noted that he had received complaints of this RVA message prior to the report from the English tourist *"but having had so many other complaints, I did not put two and two together."* (The "other complaints" referred to by Mr Smith are the other faults he had experienced on his service.) Mr Smith stated in the letter that he had made some further inquiries on the RVA issue:

*Investigations to numerous sources, from which I had expected inquiries regarding literature which I had sent, all brought a similar reply. For the period: December 1991 to as late as April 1992, those ringing were told ..... "This number is not connected?"*

- 83 After noting that his camp must meet certain criteria set by the Education Department to be listed as an approved excursion venue, Mr Smith went on to detail the potential damage to his reputation of the RVA message:

*Five weeks ago a friend, in jest, said: "I'm glad to see that you've paid your phone bill". Those words, although said in fun, give a pretty accurate summation of the opinions derived upon hearing ..... "This number is not connected." What effect does it have on the general public? What effect does it have upon prospective patrons? Would you recommend a venue which appears incapable of paying its bills?*

- 84 Mr Smith was also concerned that if a group of teachers met and were discussing the Cape Bridgewater Holiday Camp comments may be made such as *"Steer clear of them! They can't even pay their phone bill."*
- 85 As Mr Smith points out, the RVA message had the potential to severely damage his business. An important point in relation to the possible financial impact of the RVA message on the Cape Bridgewater Holiday Camp service is the camp's dependence on group bookings. In June 1992 the camp tariffs ranged from \$1500 to \$6000 per week, so the loss of even one booking because of the RVA problem could mean a substantial financial loss. On calling up Directory Assistance a calling party would have been informed that the number was connected, but many callers would probably not have taken this action, accepting the contents of the RVA message at face value.

Range of possible causes of RVA's on the Cape Bridgewater Holiday Camp service

- 86 From examination of Telecom's documentation concerning RVA messages on the Cape Bridgewater Holiday Camp there are a wide range of possible causes of this message. A list of known causes of RVA messages affecting the Camp is provided below, although this list may not identify all possible causes of RVA on the Camp services.

### **Incorrect Dialling of Cape Bridgewater Number**

- 87 In certain circumstances incorrect dialling of the Cape Bridgewater Holiday Camp number could produce an RVA message. Telecom documentation canvasses incorrect dialling as a possible cause of reports of RVA from callers trying to contact the Camp. A analysis from Telecom's undertaken by Telecom's National Networks Investigation states:

*It is worth noting that, by calling 0055 267 26 we obtain a female Recorded announcement "The number you have called is not connected, please.....". It is therefore possible that some of the reported RVA may relate to mis-dialled numbers.<sup>39</sup>*

- 88 It should be noted, however, that most callers would be expected to check the number they have dialled and/or attempted a second or third call, which would minimise the potential of incorrect dialling as a source of reports of RVA's.

### **RVA's originating from Portland region due to 'intermittent digit storage problem' at Portland exchange**

- 89 An "intermittent digit storage problem" was found in a register in the Portland exchange and repaired on 7 October 1992. This problem could cause either wrong numbers or RVA's on calls made from subscribers on ARK exchanges parented of the Portland exchange. Subscribers calling Cape Bridgewater Holiday Camp from these regions could therefore have experienced RVA's when calling the camp, and, in fact, some subscribers did and reported the problem to Telecom.<sup>40</sup>
- 90 On 24 November 1992 Telecom's Area Manager - Special Products - Commercial Vic/Tas wrote to Mr Smith and said that the "register" problem would have "affected a maximum of 1.5% of incoming calls between 2 October and 7 October 1992."<sup>41</sup> It is not clear how the

<sup>39</sup>Document entitled Analysis of 055 267 267 problem - from M93

<sup>40</sup> Probably Savill and who else?- need to locate quotes or reword this - also important for setting time frame for duration of problem

duration or extent of the problem were so precisely identified, although the duration appears to be based on some fault reports from local subscribers in early October 1992. The analysis provided is challenged by a file note made by the Hamilton Manager of Customer Services after a conversation with Mr Smith on 5 October 1992:

*Mr Smith received a letter from a lady .....who lives in Heywood. She claims (on) 22/9/92 (she) rang 267 267 between 10 and 11 am. Received RVA message this number is disconnected. Rang 267 267 25/9/92. Rang from 9.20 am onwards 7 times received RVA message, 2 times No Response, No Tones. (note: callers number was from 055 prefix region)*

- 91 Other evidence also suggests the problem had existed for a longer period than a 5 day period as Mr Smith was informed. An undated note from a Technical Officer at the Portland exchange to the Manager, National Network Investigations - Melbourne discusses his investigation of the matter. The Technical Officer had contacted the Heywood caller, who had told him she had contacted another subscriber in Cape Bridgewater "on many occasions .... and sometimes she gets a recording (MALE)" stating the service had been disconnected. The officer went on to say:

*We have had quite a few complaints from ARK-M customers (including HEYD) about this recording<sup>42</sup>*

- 92 It appears that the RVA problem the Heywood caller was experiencing when calling Mr Smith and another subscriber in Cape Bridgewater was significantly greater than 1.5%, and had been in existence for some time. From the recent information provided by the Heywood caller via Mr Smith the problem had commenced at least 10 days earlier than the period Mr Smith was informed by Telecom. It should also be noted that the problem seems to be quite severe, at least from callers from the Heywood region.

---

<sup>41</sup>30

<sup>42</sup>NNI file



- 93 Information provided by the Heywood caller suggests this particular RVA problem had almost certainly been in existence for a much longer period than a few weeks prior to the fault being repaired. A chronology of events on the Cape Bridgewater Holiday Camp provided to AUSTEL by Mr Smith notes that the same Heywood caller had tried to contact him on 16 March 1992 and experienced an RVA when attempting to see if accommodation was available at the Camp for 12 guests at her premises seeking accommodation in the Cape Bridgewater area.<sup>43</sup>
- 94 The letter provided by Telecom's Area Manager - Special Products - Commercial Vic/Tas is a further demonstration of Telecom's inability to co-ordinate customers' complaints. Mr Smith's faith in Telecom's fault investigation procedures and integrity must have been further eroded by a letter which minimised the extent and duration of the "relay" problem, particularly when the 5 day period of the problem which is admitted does not include dates identifying experience of the problem which Mr Smith had reported to Telecom.

**Incorrect programming of Cape Bridgewater number code at Windsor Digital Trunk Exchange (MELU)**

- 95 Of all the identified causes of RVA's on the Cape Bridgewater Holiday Camp service the most severe cause, in terms of the volume of incoming call traffic affected, was when the Cape Bridgewater number code data was not correctly programmed at the Windsor Digital Trunk Exchange (MELU). The length of period that this problem existed, however, is contentious. Telecom wrote to Mr Smith stating the problem occurred for a maximum of three weeks, whereas Mr Smith argues, from information provided to him by callers to the Camp, the problem existed for at least 4 months<sup>44</sup>.
- 96 As detailed above, Mr Smith's knowledge of this RVA problem was first brought to his attention by an English tourist trying to contact the Camp in March 1992. From Telecom's LEOPARD fault data<sup>45</sup> the first

---

<sup>43</sup>This call would not have trunked via MELU unless she called the 006 number, as call was a local call.

report made by Mr Smith complaining of the RVA was on 16 March 1992. LEOPARD records two prior reports of RVA from other Cape Bridgewater subscribers, with the first of these made on 4 March 1992.

- 97 Telecom's Area Manager - Special Products, Telecom Commercial Vic/Tas wrote to Mr Smith on 24 November 1992 providing information on the duration and cause of this particular RVA. This letter was the first written communication to Mr Smith providing details on the nature and duration of the problem. It was provided 8 months after the fault had been rectified, after numerous communications from Mr Smith concerning this matter. This letter stated:

*A fault at Windsor exchange in Melbourne was caused by a network program change. This programming caused a network recorded message to be given to some callers, and affected incoming STD calls from Melbourne to Bridgewater for a period of up to 3 weeks prior to the fault being fixed. The maximum impact on your incoming STD calls from Melbourne, could have been up to 50% and would have depended on exchange traffic at the time of call attempts. The Windsor exchange was reprogrammed on 19 March 1992 and this has rectified the problem.<sup>46</sup>*

- 98 The time taken by Telecom to provide this information to Mr Smith indicated extreme negligence on this matter, particularly given the severity of the problem to the Cape Bridgewater Holiday Camp service.
- 99 Telecom's argument for the maximum 3 week duration of this RVA problem is based on both customer fault reports and data number changes performed at the Windsor exchange. After seeking information from a number of sources this conclusion was reached by National Network Investigations (Melbourne) in a report dated 28 August 1992, over 5 months after the fault was rectified.<sup>47</sup> It is

---

<sup>44</sup>30 - 24 Nov 92 - from Smith says 9 months, but Smith originally said 4 months.

<sup>45</sup>624 - COBPAK Adhoc Request - what is this?

assumed that this analysis was used as the basis for the letter to Smith of 24 November 1992 which stated that this problem had occurred *'for a period of up to 3 weeks.'*

- 100 On 5 February 1993 the Manager - National Network Investigations (Melbourne) produced another report on the issues of RVA and NRR from the Cape Bridgewater Holiday Camp. This report was distributed to other National Network Investigations Managers, to the Manager - Tas/Vic Commercial Business, Commercial & Consumer Business, and to the Manager Warrnambool Operations Management Group. In regard to the MELU RVA error, this report stated:

*An exact period that this data error was effective for is difficult to obtain but analysis of MELU information indicates that the data change was in place for approximately 6 weeks.<sup>48</sup>*

- 101 In mid 1993 a briefcase containing file information was inadvertently left at Mr Smith's premises during a visit by Telecom National Networks Investigation personnel, and Mr Smith subsequently viewed the contents of his file, which contained the 5 February 1993 report. Mr Smith noticed the discrepancy in the duration of the MELU RVA problem, and alleged to AUSTEL that he had been mis-advised on this issue by Telecom. Telecom responded to AUSTEL stating that the 6 week period identified in this report was an error, and that the earlier 3 week estimate was correct.<sup>49</sup>
- 102 AUSTEL has also viewed some documentation relating to the period the data error at MELU was causing RVA on calls to Cape Bridgewater. The circumstantial evidence indicates the problem may have occurred for only 3 weeks, but no precise or definitive duration of the problem can be ascertained from the available data. A more accurate assessment of the duration of the problem would

---

<sup>46</sup>30

<sup>47</sup> 694 - Hew Macintosh for Manager - NNI - 28 August 1993

<sup>48</sup> NNI file - front page

undoubtedly have been assisted by a much earlier examination of the problem.<sup>50</sup>

103 It is apparent from Telecom's documentation that no investigation of the duration of the MELU data error problem would have been initiated without the persistence of Mr Smith's complaints on the matter. It also follows that no investigation was intended into the circumstances which led to the error occurring. The lack of this process raises serious questions about Telecom's ability to ensure such errors are not repeated.

104 The assessment provided to Mr Smith that up to 50% of STD calls from Melbourne to the Cape Bridgewater Holiday Camp would have been affected by the MELU RVA problem appears to be accurate.

### **Conclusion**

105 The advice provided to Mr Smith on matters relating to the RVA message caused by the data error at MELU was inadequate. The impression conveyed by Telecom's letter of 24 November 1992 to Mr Smith was that Telecom was certain of the maximum duration of the RVA problem, a certainty which is not conveyed by internal communications on the matter. It should be noted that the original advice provided to Mr Smith must be assessed in the context that Mr Smith had submitted a claim for compensation.

106 Telecom also failed to investigate the cause of the MELU RVA within a timeframe which would have assisted a more precise identification of the duration of the RVA problem. This was a failure to initially treat this issue with sufficient gravity.

### **RVA Problem for calls made from Public Payphones**

107 Complaints of RVA have been received from callers using public payphones trying to contact the Cape Bridgewater Holiday Camp.<sup>51</sup>

---

<sup>49</sup>Need to identify document which makes this claim

<sup>50</sup>Documentation shown and discussed with Cliff Mathieson on 17/2/94.

<sup>51</sup>see 18a - Macintosh to Exchange Managers.

Allan Smith  
 2 Bridgewater Holiday Camp  
 and Conversion Centre  
 Blandford Rd  
 Cape Bridgewater

Michael O'Meara  
 20 Rose Street,  
 Clayton 3168  
 17th June 92  
 544 4952

Dear Allan,

For some time now I've been trying to phone you  
 with no response and I'm now writing to you in the hope  
 I can make contact.

I had been trying to book your centre for a  
 group tour in September, however I've had to arrange another  
 venue as I couldn't contact you.

I have another tour quoted for January 93  
 and it looks like it will be confirmed shortly. Could you  
 please contact me as soon as possible if you would like  
 the booking, as your phone seems to be constantly engaged.

I'm not sure if you're still at Cape Bridgewater,  
 however if I don't hear from you by the end of  
 July I'll need to make alternative arrangements.

As I have on numerous occasions tried phoning  
 you with no success could you please contact me as  
 soon as possible advising me of your situation.

Yours faithfully

m i o m

**AUSTRALIAN SINGLES CENTRE**  
1143 Toorak Rd, Camberwell 3124 Ph 8896659 Fx 8893128

2011

5th July 1992

Mr Alan Smith  
RMB 4408  
Cape Bridgewater  
Portland 3306

Dear Alan

Futher to my previous letter in February.

On the 26th of June I rang you at about 9pm and spoke to you, this was not my first attempt as on my previous attemp I received a recorded message as I have in the past. Because I knew of your problem I persisted until I got you, however had I been a new enquiry you would have lost business on this occasion.

Kind Regards

  
Peter Turner



COMMONWEALTH & DEFENCE FORCE  
**OMBUDSMAN**

Prudential Building, over London Circuit & University Avenue, Canberra City  
GPO Box 442, Canberra, A.C.T. 2601, Australia  
Tel: (06) 276 0111; Fax: (06) 245 7828; Int. Fax: + 61 6 245 7829

16 November 1994

C/94/225

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

Attention Ms Joy Geary

Dear Mr Blount

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

20.1.94 Telecom unreasonably has decided to apply charges to his FOI request and has stated that the charges will be considerable.

2.3.94 Telecom has delayed providing access to documents.

2.3.94 Deletions from documents provided and exemptions were not explained.

24.3.94 Telecom claimed that documents given to Telecom by Mr Smith in 1992 had been destroyed or lost.

Telecom unreasonably refused to give any further documents to Mr Smith.

Telecom has lost or destroyed a number of files relating to his contacts with Telecom prior to 1991.

14.4.94 Telecom unreasonably refused to provide documents allegedly referring to discussions Mr Smith had with three Telecom officers concerning a discussion Mr Smith had with Mr Malcolm Fraser.

Telecom unreasonably deleted information from documents released.

Telecom unreasonably denied Mr Smith access to 460 documents. (letters of 14.4.94 and 15.4.94 from Mr Smith to Mr Black refer)

5.5.94 Telecom unreasonably delaying providing access to many documents.

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

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

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

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

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

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

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

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

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

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

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

Yours sincerely

  
John Wynack  
Director of Investigations



Issues Involved During the Resolution - Factors Considered

1. Alan requested \$150k
2. Chances of legal action - high
3. Chances of media action - 100%
4. Poor performance of Telecom:
  - historically
  - March ? problem
  - Local Portland problem fixed in October
  - wiring and cabling issues
  - RVA on congestion
5. Slow resolution of past problems both technical and claims
6. COT involvement:
  - chances of class action
  - chances of mass media action
  - chances of membership growth
    - Adelaide Pizza
    - Mt Gambia
    - Portland
7. Evidence of problems:
  - Many letters stating the problem of not getting through to Alan Smith
  - People prepared to make statements of problems
  - Claims that Alan had rung himself from his Goldphone and not got through
  - Austel and Ombudsman both had trouble getting through
  - Many claims which might be difficult to substantiate in court but would be credible in the media
  - Viability of business for the future - increased bookings since the service Period of time
8. Costs incurred:
  - Additional phone calls to chase up business - about \$1000
  - Legal costs - about \$1000
  - Camps prepared but not run
  - Advertising
  - Time
9. Alan's time and other consequential costs - health, stress, etc

10. Loss of business:
- Camps lost because party could not contact Alan (evidence in letters - \$10,000 loss of profit)
  - Extrapolating - about \$40,000 over a period
11. Loss of partnership:
- Alan claims \$100,000 loss because he had an opportunity to sell a share in his business but this opportunity was lost because the potential partner stated he could not contact Alan Smith initially and lost faith in the telephone service available - hence withdrew his offer
12. Possible legal costs:
- If Alan took legal action Telecom would incur significant legal costs to defend it - about ?
  - If Telecom lost, we could also incur Alan Smith's costs
  - Estimated what possible bill?
13. Inquiry costs - both Austel and Ombudsman's Office has been actively involved. Enquiries are ongoing. Cost of <sup>Saving</sup> ? - about
14. Cost of arbitration - Mr Smith wanted to use an independent arbitrator to resolve the dispute - cost in a case in Sydney \$25k
15. Management time - I have spoken to Alan Smith regularly (daily) over a period. I began making appointments for when I would ring him - he nearly always rings me prior to the call. When I did not ring him daily (even if I was not scheduled to) he wrote to Frank Blount and Doug Campbell or both. He had regularly rung Doug Campbell's office (Judy Lanstrom) several times a week and Austel and others in Telecom. This was despite my setting up a regular contact point (Mark Ross in Ballarat) for him and a specialist diagnostic technical manager (Bruce Pendlebury). Mark spoke with Alan Smith once a week at least. Bruce averaged 5-6 calls a week to and from Alan Smith. He also contacted the Area Manager, Don Lucas, on a regular basis. Don also visited Alan Smith at Cape Bridgewater. This was going to continue forever if all matters were not resolved.
16. Legal position - Mr Smith's service problems were network related and spanned a period of 3-4 years. Hence Telecom's position of legal liability was covered by a number of different acts and regulations. The immunity claimed has never been tested in court and the current immunity from paying loss of business compensation depends upon Section 8 of the BCS Tariffs lodged with Austel. This is probably the least clear of the immunities. In my opinion Alan Smith's case was not a good one to test Section 8 for any previous immunities - given his

evidence and claims. I do not believe it would be in Telecom's interest to have this case go to court.

Overall, Mr Smith's telephone service had suffered from poor grade of network performance over a period of several years; with some difficulty to detect exchange problems in the last 8 months.

In the media Telecom would not have looked good at a time when we are working hard to improve general customer perceptions.

In a legal battle, Telecom's chance of winning would have to be about 50/50. The bad publicity for Telecom would have been significant.

In my view were Alan Smith to win a legal battle he could have been awarded payment as high as \$40,000. If we went to arbitration a payout of the order of \$80,000 would not be out of the question; with costs of setting up the arbitration extra.

In the interests of expediency and Commercial judgement I considered it better to reach a commercial settlement.

Mr Smith's communication arrangement is questionable:

- other ways eg second line, fax, 008, etc of contacting him not set up
- use of answering machine improper or incorrect
- answering arrangements when Mr Smith was not there *not satisfactory*
- Telecom's defence in some doubt on causality

*There are few personal notes recorded at the time of settlement. Alan Smith did seem not prepared to provide better substantiation of his claim.*

*James Pittard*

I, CATHERINE JOAN EZARD (LINDSEY)

of Lot 1  
PITFIELD RD  
NEWTOWN  
VIA SCARSDALE Vic 3352  
sincerely declare

in the State of Victoria  
do solemnly and

THAT In May 1993 on a request from Alan Smith, I went to collect mail sent to Ballarat Courier Newspaper in response to an advertisement placed in this newspaper re persons experiencing phone problems.

On two occasions there was no mail to collect even though prior inquiries to the Courier had indicated there was.

Over a period of one week I collected two letters. Mr Smith requested I open these letters and read them to him over the phone.

One letter was very unusual. It was from a Telecom employee who had written as if in response to an advertisement for a house to rent, stating his number of years employment with Telecom, etc.

A contact number and address was in this letter. On a trip through Ballarat, Mr Smith collected the letters from me and also phoned the Telecom employee concerned from my home. He did not speak to the employee but relayed a message through the person who took the call.

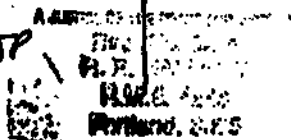
Mr Smith's call was not returned while he was in Ballarat.

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

DECLARED at Portland in the  
State of Victoria this 20<sup>th</sup>  
day of May One thousand  
nine hundred 94

*B. Ezard (Lindsey)*

Before me *R.R. Halliday JP*



RECORD OF CONVERSATION BETWEEN CONSTABLE TIMOTHY DAHLSTROM AND  
MR ALAN SMITH (CONTINUED) PAGE 12

Q54. Just one last thing Alan that I've got, there's a letter here that you've written to Mr Paul RUMBLE of Telecom?

A. Right.

Q55. ~~And it relates to a conversation that you had on the 31st of June with him?~~

A. Mmhuh.

Q56. And I believe it also relates to the bus?

A. Right, it does yes.

Q57. Company matters etcetera. The thing that I'm intrigued by is the statement here that you've given Mr RUMBLE your word that you would not go running off to the Federal Police etcetera?

A. Mmhuh.

Q58. Can you tell me what he background of that is?

A. Well I rang Paul RUMBLE up and I said look, I want some sort of clarification with all these, I said we, we get people saying that my staff no longer, as soon as I leave, that they, turn me back they're away. I said we get people that are saying that this person no longer here, and I went through all this, what you've got there. And I said, now I come up with the documentation, I said with Malcolm FRASER that I spoke to Malcolm FRASER and I know damn well I didn't tell anybody. I said I come up with this document and I said and there's no, nobody, nobody's given me any information to, to, to where you got all this information from. And he said well look I'll, I said my.. the one thing I want to know I said, how the bloody hell did you, or what made you fella's write this notifications at the side of these columns of people I've rang, I said I want to know. And he said look, well I'll do anything, he said, just don't go running off to the Federal Police. I said I won't go, I said I'll tell you what, you do the right thing by me, you return to me you give me some a letter back on this, and I said I won't go off to the Federal Police. I said I've had no letters regarding that, and I gave that to Warwick SMITH too.

Q59. And that, I mean that relates directly to the monitoring of your service where, it would

FREEDOM OF INFORMATION ACT 1982  
(COMMONWEALTH)  
DOCUMENT HAS BEEN RELEASED  
UNDER THE ACT BY  
THE AUSTRALIAN FEDERAL POLICE

23A

RECORD OF CONVERSATION BETWEEN CONSTABLE TIMOTHY DAHLSTROM AND  
MR ALAN SMITH (CONTINUED) PAGE 13

↓  
indicate that monitoring was taking place without your consent?

A. That was before I found the other document under malicious call trace, on my 267230, as I said they haven't got back to me since.

Q60. And you know what Mr RUMBLE's position is in Telecom?

A. Yes. He's Customer Response Unit, which would be sort of number, number one underneath Mr BLACK.

Q61. And he is fully aware of our investigation in relation to monitoring of telephone services?

A. Oh yeah sure.

DAHLSTROM Okay. Superintendent PENROSE have you got any questions.

PENROSE

Q62.

Thanks Tim. The information that John McMAHON passed on you from Austel about live monitoring. Do you know where he got that information from?

A. No, but it, it is in an Austel document, I can't find it but it wouldn't be that hard to find. At a, it's amazing because I wanted to put it into my, my own submission but it's a document saying Mr SMITH was one of two people that were, the lines were in, and it's really to that, very similar to that one that it's in the Telecom stuff. So it did mention Glen Waters being John MAIN and it mentioned me but it did say that the certain times of 1993 that Mr SMITH's lines was, you know was monitored. And that's when I first knew right. And then I come across me FOI and of course that, that clarified it.

PENROSE Do we have that document.

DAHLSTROM Yeah I think I've seen it somewhere before, which is virtually a mirror of the document we spoke about earlier.

A. Yeah it's very close to that.

DAHLSTROM Where, it's an internal report stating the monitoring did take place.

PENROSE

Q63.

And live monitoring as far as he was as aural

FREEDOM OF INFORMATION ACT 1982  
(COMMONWEALTH)  
DOCUMENT HAS BEEN RELEASED  
UNDER THE FOI ACT BY  
THE AUSTRALIAN FEDERAL POLICE

23A



R.M.B. 4408, CAPE BRIDGEWATER, VIC, 3808  
 TELEPHONE: (039) 207 267.

10-9-92



Mark Ross  
 Customer Service Manager  
 Commercial-Country Victoria  
 P.O.Box 299  
 Ballarat.  
 Fax=053-3491776

02/14  
 Friday 10/9/92  
 O'Hagan

Dear Mark

I will keep this letter short and direct and to the point as you are well aware of my telecommunication problems. While at the South West Tourism promotion campaign in Melbourne early this week, I was approached by the proprietor of a bus charter company to tender for a very lucrative tourism venture starting next year. How ever with fairness to the many people who would be involved with this proposition I would have to be able to guarantee them I have a reliable phone service. This company has over many months tried to contact me without such success hearing an engaged signal constantly before making contact, so they are well aware of my past problems. I have explained I am under the assumption my telecommunication problems are now over or at least just about rectified which I hope is the case. If Telecom would now guarantee me an efficient service I can pursue this tender, could you Mark or your Victorian Divisional Manager write me a short note confirming this guarantee. I am counting on this venture to not only give me a much needed occupancy boost but an awareness of our local tourism outlets. I would need this letter know later than 18th of September as offers of interest must be in by then, if this could be arranged I would be obliged.

Respectfully

Alan Smith

George 12/4

FREEDOM OF INFORMATION ACT 1982  
 252  
 DOCUMENT HAS BEEN RELEASED  
 UNDER THE FOI ACT BY  
 THE AUSTRALIAN FEDERAL POLICE

23-B

PROTECTED

FOI document A10148, a copy of a letter dated 10/2/94 from Austel's General Manager of Customer Affairs to Telstra's Group General Manager in charge of the COT arbitrations, confirms the visit by the Federal Police. In this letter Austel notes:

*"Yesterday we were called upon by officers of the Australian Federal Police in relation to the taping of the telephone services of COT cases."*



**AUSTRALIAN TELECOMMUNICATIONS AUTHORITY**

92/0506(B)

10 February 1994

Mr S Black  
Group General Manager  
Customer Affairs  
TELECOM.

Facsimile No: (03) 632 3241

Dear Mr Black

**COT Cases - Tapes**

Yesterday we were called upon by officers of the Australian Federal Police in relation to the taping of the telephone services of COT Cases.

Given the investigation now being conducted by that agency and the responsibilities imposed on AUSTEL by section 47 of the Telecommunications Act 1991, the nine tapes previously supplied by Telecom to AUSTEL were made available for the attention of the Commissioner of Police.

Yours sincerely

John MacMahon  
General Manager  
Consumer Affairs

A10148

23c



All CB services off the air for 9 minutes due to a software fault in the Portland AXE exchange.

2.15 Period 3rd April - 5 June 1993 - Network Faults Causing a Range of Problems  
Some Calls Lost

- 3 April 1993 - CBHC has difficulties calling Heywood, fault found in Warrnambool - Heywood exchanges affecting all callers to Heywood ('line signalling failures on circuits between the Warrnambool AXE and Heywood ARK exchange - ref B004 Service History, p58).
- 5 June 1993 - Callers from Sebastopol having difficulty calling CBHC - fault in Sebastopol exchange, "which would have resulted in customers calling STD destinations from Sebastopol intermittently experiencing 'no progress'". (ref - B004 Services History, p59).

2.16 Malicious Call Trace (MCT) on Two Lines Causes Slow Cleardown of Calls:  
MCT was placed on 267 267 and 267 230 - 26 May 93

The MCT provides a Calling Line Identification (CLI) facility for calls originating from modern exchanges and a 'last party release' facility for calls from older exchanges; in the latter case it (MCT) effectively removes the protection of an incorrect hang-up. The effects are covered in the witness statement of Mr David Stockdale of 8 December 1994.

- (i) Telephone 'dead' for a period of 1.5 minutes after hang up.

"17. During NNI's second investigation of Mr Smith's service, we inadvertently caused a fault ourselves as part of implemented testing procedures. This fault arose from the use of the 'malicious call trace' facility ('MCT'), that was placed on Mr Smith's service at the Portland Exchange in an attempt to ensure more detailed data relating to Mr Smith's incoming calls. The additional information (specifically Calling Party number information) was required so that we could more accurately match possible problem calls against his fault reports. Mr Smith knew this form of testing was being undertaken, as we had discussed it with him.\* During the period that malicious call tracing was in place, when Mr Smith received calls from exchanges that can only provide limited detail regarding the A party number and hung up his telephone, there was a 90 second period after he hung up that the Exchange controlling the call believed that his call was not over. (Limited call details can occur for exchange technologies such as step by step. This is known as Partial Calling Line Identification, Partial CLI). As a result, if parties attempted to call Mr Smith within this 90 second period, they would not be able to do so. Likewise, if Mr Smith attempted to make calls during this 90 second period, his phone would appear to be 'dead' with no dial tone.

M34207

23-D

TO

FROM

HORSHAM MINOR SWITCHING CENTRE

SUBJECT TEST CALLS TO CAPE BRIDGEWATER

DATE 18-1-94

CHRIS,

ON THE 18th OF AUGUST 1993 TEST CALLS WERE MADE DIRECTLY TO MR. SMITH FROM AN SR-B EQUIPMENT PHONE NUMBER AS REQUESTED BY DAVE STOCKDALE. THE RESULTS WERE THAT MY FIRST CALL WAS SUCCESSFUL AND CONVERSATION TOOK PLACE HOWEVER SUBSEQUENT CALLS ENCOUNTERED BUSY TONE. I BELIEVE I MADE ABOUT FIVE CALLS BEFORE I WAS AGAIN SUCCESSFUL.

I WAS INFORMED THAT THE PROBLEM WAS CAUSED BY M.C.T. FACILITY PARAMETERS ON THE CUSTOMERS SERVICE AND I BELIEVE THAT I FORWARDED THIS INFORMATION TO THE CUSTOMER.

THE FOLLOWING DAY, WITH M.C.T. FACILITIES REMOVED. I MADE MORE TEST CALLS ALL OF WHICH WERE SUCCESSFUL.

FURTHER DETAILS ARE RECORDED WITH DAVE STOCKDALE.

23E

R20912

12th April

10. Colorado Get  
Hermitree Gully  
Vic 3156

2028

Dear Alan,

how are you all down at the camp. We wonder if any thing was wrong, as on ~~several~~ several times in the past month we have tried to ring you with not much success, the phone is either engaged or out of order, & when we try the 008 No we are told by the operator that the No is not connected, or you do not have a 008 No.

How do you run a Business if the phones do not work right. It's not as if you are in the middle of a desert or the great ocean, but even out there you would get better service, Ha-Ha-Ha

This facsimile from 60 minutes dated 18 June 1993 is self explanatory.

**60**  
minutes

**60 MINUTES FACSIMILE**

To: ...MR. ALAN SMITH.....  
.....(055) 267 230.....  
From: ...JULIAN CRESS.....  
Date: .....JUNE 18TH 1993..... No of pages .1.....

DEAR ALAN,

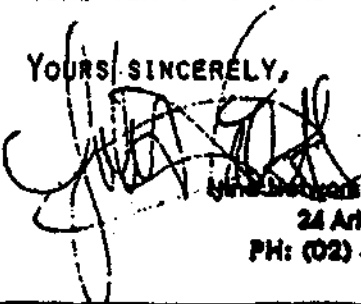
JUST A NOTE TO LET YOU KNOW THAT I HAD SOME TROUBLE GETTING THROUGH TO YOU ON THE PHONE LAST THURSDAY. PRETTY IRONIC CONSIDERING THAT I WAS TRYING TO CONTACT YOU TO DISCUSS YOUR PHONE PROBLEMS

THE PROBLEM OCCURRED AT ABOUT 11AM. ON THE "008" NUMBER I HEARD A RECORDED MESSAGE ADVISING ME THAT "008" WAS NOT AVAILABLE FROM MY PHONE AND ON YOUR DIRECT LINE IT WAS CONSTANTLY ENGAGED.

AFTER ABOUT HALF AN HOUR I CONTACTED SERVICE DIFFICULTIES IN SYDNEY. THEY CALLED THE LOCAL OPERATOR IN YOUR AREA WHO REPORTED BACK THAT YOU WEREN'T ON THE PHONE BUT THAT THE LINES IN YOUR AREA WERE CONGESTED AT THE TIME.

I'M AWARE THAT YOU HAVE BEEN HAVING PROBLEMS LIKE THIS FOR SOME YEARS NOW AND WISH YOU THE BEST IN SORTING THEM OUT.

YOURS SINCERELY,



United Telecom Australia Limited (A.C.B. 099 071 167)  
24 Arkaroon Road Wilsborough 2048  
PH: (02) 438 3433 FAX: (02) 936 0527

P.O. Box 214  
 Mt. Gambier  
 5290.  
 7.12.93

Dear Allan,

I tried to ring you  
 last week regarding the Xmas party  
 on 4<sup>th</sup> & 5<sup>th</sup> but was unable to make  
 contact - phoned Albed - Thursday - p.m. &  
 got only noise on but a dead line, but  
 on Friday evening when I last tried I  
 received a phone recording to the effect  
 that the no I was calling was no longer  
 connected, something about checking the directory  
 thought I had better not turn up  
 unannounced. please write & let  
 me know when the next meeting is.

Yours faithfully  
 Jim Thompson

11

- (a) State precisely for what periods, if any, the alleged problems with the Claimant's telephone service abated between February 1988 and August 1994.

**Answer Question 9:**

- (a) Abated is a statement used to say, that there were times when in and around June and July of 1993 that I believed the phones were better than they had been. That however was only for a two month period. I did at one time talk to Ian Campbell, through stress, I was walking out of this business, things were so bad with the customer complaints, I thought this was the only option. Except a trivial payout. Pay off debts and start somewhere else. Telecom have only to look at the reports of the RCM in April 1994. Can they honestly say they gave me a service that they themselves would have excepted in a commercial environment. Just have a look at that RCM. A disgrace to even argue the customer was wrong.

**10. In relation to page 13:**

The Claimant has stated that persons employed by the Claimant, local businesses, prospective clients, returning clients, friends and associates have all witnessed and experienced the problems the Claimant has allegedly had with his telephone service.

- (a) Provide specific details of what documentation, if any, has been submitted by the Claimant to support the allegation that persons employed by the Claimant, local businesses, prospective clients, returning clients, friends and associates have all witnessed and experienced the problems that the Claimant has allegedly had with his telephone service.

**Answer Question 10:**

L69165

- (a) In my letter of claim, reference 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2038, 2039, 2040, 2041, 2042, 2043.

24

12

2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2073, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2091, 2092, 2094, 2095.

**11. In relation to pages 16 and 17:**

The Claimant states that he "attached correspondence" from clients and other business operators in the Cape Bridgewater area which show that they also suffered severe fault conditions with their service from Telecom.

- (a) Provide details of the location in the Claim Documents of the "attached correspondence" from clients and other business operators in the Cape Bridgewater area which show that they also suffered severe fault conditions with their service from Telecom.

**Answer Question 11:**

- (a) 2093, 2108-2118 inclusive, 2075 and 2073.

**12. In relation to page 17:**

The Claimant has stated that Telecom failed to maintain Leopard records or any other fault records over a long period of time.

- (a) State the basis upon which it is alleged that Telecom failed to maintain Leopard records or any other fault records over a long period of time.
- (b) State what documentation, if any, has been submitted by the Claimant to support the allegation that Telecom has failed to maintain Leopard records or any other fault records over a long period of time.

L69166

24

just about three states? 0175 tried three times before making a contact. 60 Minutes Team over three quarters of an hour, then only via 1100. These can be found in 2001-2158 reference.

Re: Reference 2001-2158.

Sister Donnellon, Lorreto College  
 Robert Palmer, Heywood Primary School  
 Gladys Crittenden, Haddon Community House  
 Cathy Lindsey, Haddon Community House  
 Tony Speed, Hamilton Secondary College  
 Mikan Media, North Balwyn  
 Vander Savill, Heywood Museum  
 Sydney Ostrow & Associates, Business Consultants  
 Julian Cress, 60 Minutes TV Program  
 Robert Walker, 1/44 Munro Street, Macleod, Vic.  
 Connie Hancock, 256 Albert Street, South Melbourne  
 Brenda White, Wallacdale, 1100 put her through  
 British Tourists, 17 July 1992, three States, 1100 put them through  
 Peter Turner, Australian Social Centre, Camberwell  
 Jim Constandinidis, Cheltenham, Victoria  
 Portland Heating, drove out to camp to make contact  
 Jim Humphries, Mt Gambier  
 Tina Velthuyzen, Statutory Declaration 1100  
 Phillis McDonough & Associates, Loss Adjusters

Telecom have letters from 1992, still not received under Freedom of Information.

**22. In relation to page 47:**

The Claimant has stated that the incident with Mr Anderson "highlights the demeanour and attitude of Telecom in respect to investigating my ongoing problems."

- (a) State what demeanour and attitude of Telecom is said to be displayed by the reported incident.

L69177

**Answer Question 22:**

- (a) I refer you to Page 34 where I state that the management of Telecom had no desire to



MAIL:

Wednesday, 21 April 1993 1:40PM

GREG,

I ACCEPT YOUR ARGUMENT. I GUESS I REACT FROM FRUSTRATION.

DON

From: Newbold, Greg  
To: Pinel, Don  
Cc: Wood, Don; Campbell, Ian; Pittard, Rosanne  
Subject: RE: COT cases latest  
Date: Wednesday, 21 April 1993 1:39PM

Don, thank you for your swift and eloquent reply. I disagree with raising the issue of the courts. That carries an implied threat not only to COT cases but to all customers that they'll end up as lawyer fodder. Certainly that can be a message to give face to face with customers and to hold in reserve if the complainants remain vexacious.

Other than that, I've got no probs with your suggestion except that to say we're happy to co-operate for a speedy resolution is not borne out by the COT case history and will be deriding mercilessly by the media. The briefer we are, the more likely we are to get a run on our own terms. However, the wording is clearly something for you guys to agree to with Ian Campbell. My main concern is about the overall strategy ie: not actively pushing the matter in the media.

Hindsight tells me that with Graeme Schorer we should have negotiated an agreed media statement with him as part of the settlement. It may be something to consider for future settlements. That way, we can go positively into the media with a resolution agreed to by all parties. This will make it very hard for COT case members to revisit the matter once a settlement has been reached and publicised.

Regards,

Greg.

From: Pinel, Don  
To: Beattie, Ken; Wood, Don; Pittard, Rosanne; Newbold, Greg  
Cc: Campbell, Ian; Anderson, Keith; Benjamin, Ted  
Subject: RE: COT cases latest  
Date: Wed, Apr 21, 1993 1:13PM  
Priority: High

GREG,

THANKS FOR THE NOTES. I FEEL THE MEDIA RESPONSE IS A BIT TOO ABRUPT AND DEFENSIVE. CANT WE INCLUDE THAT:

THIS IS A DISPUTE BETWEEN BUSINESSES AND THE APPROPRIATE PLACE TO HAVE IT RESOLVED IS IN THE COURTS. WE ARE HAPPY TO COOPERATE TO ENSURE A SPEEDY RESOLUTION. IN ADDITION TELECOM HAS OFFERED AN ALTERNATIVE PROCESS TO RESOLVE USING AN INDEPENDANT ASSESSOR (AS SUGGESTED BY AUSTEL) BUT THIS PROCESS HAS NOT BEEN ACCEPTED BY THE OTHER PARTIES.

THERE MAY BE OTHER POSITIVE MESSAGES THAT WE CAN INCLUDE.

DON

C04094

25A

Thursday, 6 May 1993

2038

Alan Smith  
Cape Bridgewater Holiday Camp  
RMB 4408  
Cape Bridgewater 3306



CAMPING ASSOCIATION  
OF VICTORIA INC.

332 BANYULE ROAD  
VIEW BANK VICTORIA 3084  
TELEPHONE (03) 437 5434  
FACSIMILE (03) 437 3438

Dear Alan,

I am writing to confirm our involvement in the continuing problem you have establishing the impact of a deficient telephone system on your business.

Since the issue was uncovered and reported to us by you some two or two and a half years ago, we have had occasion to explain to many people that they should persist telephoning or even write to you to make contact. It has been clear that several have wanted to make contact but been unable; they have rung us to find out why.

Ten thousand copies of the Resource Guide (in which you had your last advertisement) were direct mailed to schools and given away. Virtually all other major advertisers, with advertisements such as yours, experienced an increase in enquires and bookings. It is clear to me that the malfunction of the phone system effectively deprived you of such gains in business.

We have had, even this year, people still asking why they cannot get an answer from your phone number. We have tried to explain to them that you want their business but are hampered by an inadequate phone system. However I'm not sure that they do persist. The phone for most campsites is the first line of business and enquiry; any promotion is wasted if people cannot reach you to pursue their interest in hiring your site.

I wish you well in your efforts to convince the authorities that your business has suffered to the extent I believe it has.

Yours sincerely,

A handwritten signature in black ink that reads "Don MacDowall". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

Don MacDowall  
Executive Officer

25B

Austel's General Manager of Consumer Affairs, John MacMahon, was becoming more concerned at the evidence COT members were producing; evidence of continuing complaints like these, as well as evidence of incorrect charging. These two problems — people not being able to get through and calls being charged incorrectly, come together in a note from a Mrs Haddock from Croydon. Mrs Haddock wrote regarding her problems getting through on 22 May 1993 and how she continually reached a recorded voice announcement saying that my phone had been disconnected. She commented that she thought this message was 'quite strange'. My Telstra 008 account for that day (see below) showed a number of very short calls. Apparently I was being charged for RVA messages!

**008 - National Direct Dialed calls** *continued*

	Date	Time	Origin	Destination	Rate	Min:Sec
	Termination point 055267267			<i>continued</i>		
5-4	21 May	02:43 pm	05	055267267	Day	3:48
5-5	22 May	09:46 am	03725	055267267	Day	0:20
5-6	22 May	10:01 am	03725	055267267	Day	0:05
5-7	22 May	12:00 pm	03725	055267267	Day	0:06
5-8	22 May	02:00 pm	03725	055267267	Day	0:05
5-9	22 May	03:23 pm	03725	055267267	Day	0:07
5-10	22 May	04:21 pm	03725	055267267	Day	0:04
5-11	22 May	08:24 pm	03725	055267267	Night	12:04
5-12	22 May	08:37 pm	03725	055267267	Night	2:32
6-1	22 May	08:46 pm	03725	055267267	Night	5:15
6-2	23 May	08:00 am	03725	055267267	Economy	3:59



**AUSTEL**

AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

9 June 1993

**[Redacted]**  
Director, Regulatory  
Telstra

Facsimile No: (03) 634 8888

**[Redacted]**

You are probably aware of the case of Mr Alan Smith, one of the "OOT cases" and proprietor of the Cape Bridgewater Holiday Camp. Mr Smith last year agreed to settle his claims against Telecom on the basis that a service of normal network standards would be guaranteed.

Since that time Mr Smith claims to have been constantly plagued by faults ranging from no ring, short ring, ringing out, engaged, recorded message and now claims to be subject to charging anomalies. He has had very frequent contact with AUSTEL on these matters.

In addition, he alleges that he was misinformed at the time of settlement (and subsequently) and led to believe that the problems he was experiencing were unique in the area. He now claims to have copies of Telecom network investigation working documents which clearly indicate that these problems in the network were far more widespread in the area. He claims that he was also advised that the problem whereby callers had been confronted with a recorded voice had occurred only over a period of two days - later said to be no more than three weeks. He now claims that Telecom records show this to be six weeks and possibly much longer.

Further he claims that the Telecom documents contain network investigation findings which are distinctly different from the advice which Telecom has given to the customers concerned.

In summary, these allegations, if true, would suggest that in the context of the settlement Mr Smith was provided with a misleading description of the situation as the basis for making his decision. They would also suggest that the other complainants identified in the folders have knowingly been provided with inaccurate information.

I ask for your urgent comment on these allegations. You are asked to immediately provide AUSTEL with a copy of all the documentation which was apparently inadvertently left at Mr Smith's premises for its inspection. This, together with your comment, will enable me to arrive at an appropriate recommendation for AUSTEL's consideration of any action it should take.

*[Handwritten notes and signatures]*  
11/10/93  
I am not familiar with this case. Can we see how to handle it?  
[Signature]

As to Mr Smith's claimed continuing service difficulties, please provide a statement as to whether Telecom believes that Mr Smith has been provided with a telephone service of normal network standard since the settlement. If not, you are asked to detail the problems which Telecom knows to exist, indicate how far beyond network standards they are and identify the cause/causes of these problems.

↓ In light of Mr Smith's claims of continuing service difficulties, I will be seeking to determine with you a mechanism which will allow an objective measurement of any such difficulties to be made.

Yours sincerely



John MacMahon  
General Manager  
Consumer Affairs

Internal Memo



To David Shepherd  
Manager  
Network Investigations

From Rosanne Pittard  
General Manager

Subject Cape Bridgewater Holiday  
Camp

File VSC/14

Date 17 June, 1993

Telecom Commercial Vic/Tas

540 Springvale Road  
Olen Woodley  
Vic 3150  
Australia

Telephone 03-850 7500  
Message Bank  
Facsimile 03-862 1926

Distr.

I refer to our telephone conversations regarding the material contained in Mr Macintosh's brief case.

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. I need your assistance for this. Can we discuss as soon as possible please?

*Rosanne Pittard*  
Rosanne Pittard  
General Manager  
Commercial Vic/Tas

K03281



Pittard, Rosanne

From: Newbold, Greg  
To: Fuery, Patrick; Beattie, Ken; Pinel, Don; Campbell, Ian; Pittard, Rosanne; Parker, Harvey; Holmes, Jim; Benjamin, Ted; Marshall, Ross  
Cc: Vonwiller, Chris  
Subject: 5pm COT wrap-up  
Date: Wednesday, 7 July 1993 5:28PM  
Priority: High

At around 5pm today, Senator Boswell released another news statement saying broadly that Telecom cannot hide behind the secrecy clauses in the settlements it has made.

Rumble has contacted the Senator's office and left a message that we are prepared to provide a briefing to him to put the Telecom side of the story. We should therefore prepare materials on the understanding that we may be called upon at short notice.

The confidentiality arrangements can be defended in terms of the settlements being commercial arrangements and that Telecom makes similar arrangements with all sorts of customers for commercial reasons on a daily basis.

The total follow-on media interest in the Boswell inquiry story has amounted to three calls. One from Exchange newsletter, one from AAP and one from Clinton Porteous of the Herald-Sun.

I advise that Clinton be targetted for some decent telecomms exclusive stories to get his mind out of the gutter. He will write a nasty piece in tomorrow's (thursday) paper. He will certainly mention the confidentiality clauses and I fully expect a call from him at home tonight.

Ross, can you and I caucus on maybe showing Clinton around an exchange and showing him the efforts we've gone to. Even on a confidential basis, it might stop him taking the Graeme Schorer line every time.

I think it should be acknowledged that these customers are not going to become delighted. We are dealing with the long-term aggrieved and they will not lie down. Even if we were to weaken and give them a fist full of dollars, they would, in my view (and Don's, Ken's and Rosanne's) simply crow of a victory and then continue to complain about our allegedly poor service.

Further, I propose that we consider immediately targetting key reporters in the major papers and turn them on to some sexy "look at superbly built and maintained network" stories.

Regards,

Greg.



C04054



To: Manager  
 Warmambool COG  
 [Redacted]

From: [Redacted]  
 Pair Gains Support

File: XS132.

Date: 12th July 1993.

Subject: Portland to Cape  
 Bridgewater RCM System.

National Switching Support  
 (Meth)

9th Floor  
 25 Colson St  
 Melbourne 3000  
 Australia

[Redacted]  
 [Redacted]  
 [Redacted]

C.C. Manager Network Investigations Att. D.Stockdale  
 Manager Commercial Network Support Att. R.Morris.

**PORTLAND - CAPE BRIDGEWATER  
 RCM SYSTEM**

At the request of [Redacted] Manager, Warmambool COG. (CPE), NSS-Melbourne, Pair Gain Support Section, visited Portland exchange on 2nd March '93, to investigate problems reported on the Portland - Cape Bridgewater RCM system.

Initial reports where of a vocal customer at Cape Bridgewater complaining of VF cut-offs 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. ...

**Initial error counter readings:-**

Portland to Cape Bridgewater direction:-			
	System 1	System 2	System 3
SES	0	0	0
DM	45993	3342	2
ES	65535	65535	87

Cape Bridgewater to Portland direction:-			
	System 1	System 2	System 3
SES	0	0	0
DM	1	1	0
ES	246	751	23

5

At this stage we had no idea over what period of time these errors had accumulated.

Attempts to test the inground repeaters using the "trios" system where unsuccessful as the strapping records could not be located.

Other faults identified with the Cape Bridgewater installation where:-  
 -the presence of 500Hz. noise on all customer lines at -58 dBm causing minor noise problems.

M34204  
 30



- cable ducts into both the cross connect cabinet and the concrete hut were sealed allowing the ingress of moisture, which could affect the error counts detailed above. U, U i

- the alarm system on all three RCM systems had not been programmed. This would have prevented any local alarms being extended back to Portland.

The bearer performance was monitored overnight and revealed that system 1, in the Portland to Cape Bridgewater direction, accumulated approximately 450 DM's and 43500ES's while systems 2 and 3 recorded no errors in either direction.

A problem with the installation of the enhanced lightning protection modules in the IDS block at Cape Bridgewater was discovered. After this problem was rectified and the bearer monitored overnight, no DM's or ES's were recorded. II

All the SE boards used in the Portland - Cape Bridgewater RCM system have now been modified to eliminate the 500Hz. noise problem. SE boards installed in the Portland - Alcoa RCM system were also modified to eliminate a 500Hz. noise problem on cut over.

The problem of sealing the cable ducts has since been rectified by the local lines staff.

NSS-Melbourne has continued to monitor the Portland - Cape Bridgewater bearers since the 3rd March '93. In the period from the 3rd March '93, to the 17th March '93, the errors on all three bearers have been minimal.

ie:- Portland to Cape Bridgewater direction:- system 1, 4 ES  
- system 2, 3 ES  
- system 3, 0 ES

Cape Bridgewater to Portland direction:- system 1, 1 ES  
- system 2, 1 ES  
- system 3, 3 ES

[REDACTED]  
[REDACTED]  
for Supervising Engineer, National Switching Support - Melbourne.

6

M34205

30

issues to be addressed in the *Fast Track Settlements* 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 COT 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)

7.32 Telecom's more recent (18 February 1994) summary of the effect of the fault upon Mr Smith's service was to the following effect -

*"The fault would have caused only some low level noise on the transmission of conversations in the Portland to Cape Bridgewater direction.*

*There was a low probability of any occurrence of call drop out or impact on Mr Smith's ability to make or receive calls."*

(Letter dated 18 February 1994, Telecom's Group General Manager, Customer Affairs to AUSTEL)

7.33 Telecom's more recent assessment of the effect of the Cape Bridgewater RCM fault on Mr Smith's service not only conflicts with the contemporaneous report quoted in paragraph 7.31 above but also does not accord with Telecom's contemporaneous GAPS record for September 1992 which shows a significantly higher complaint rate of *call drop out and no ring received* for customers who were reliant on the defective plant than for those dependent on the remainder of the Cape Bridgewater RCM.

#### **Pulse Code Modulation (PCM) fault**

7.34 As observed in Chapter Six, in the course of Telecom's investigation of Mrs Gillan's complaint Telecom's technicians identified faulty Pulse Code Modulation equipment as a possible cause of *call drop outs* affecting her business, Japanese Spare Parts (see Chapter Six).

7.35 Again, it is difficult to reconcile the contemporaneous reports of this problem with Telecom's more recent report (10 February 1994) entitled "*Difficult Network Faults - PCM Multiplex Report*". Statements in the report that the impact of the Siemens A735 call cut off fault on incoming calls was not significant must be read in light of contemporaneous reports (referenced in Chapter Six) that -

*"... the problem, when solved, will generally clear the cut off problem which we perceive as the major disability confronting our customers."*

*"Evidence exists that Cut Offs are widespread in the region ...."*

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

Between

**ALAN SMITH**

Claimant

and

**TELSTRA CORPORATION LTD trading as  
TELECOM AUSTRALIA**

Telecom

### **WITNESS STATEMENT OF GORDON STOKES**

I, **GORDON STOKES**, Student, of 13 Bentinck Street, Portland, in the State of Victoria, solemnly and sincerely declare and affirm as follows:

#### **BACKGROUND**

1. I commenced employment with Telecom in 1967. I initially spent 22 years with Telecom's Country Network Engineering group ("CNE") installing telephone switching equipment and associated equipment including AXE nodes, AXE 104 exchanges (rurals), ARK exchanges, ARF exchanges and associated equipment such as RCM systems. Between 1982 and 1989 I was a Projects Supervisor with CNE.
2. I transferred to Network Operations Portland in 1989 and between 1990 and 1994 I was responsible for maintaining switching equipment at the Portland exchange, including the AXE 104 exchange, the ARF exchange and associated equipment such as the RCM systems which connected customers to Portland AXE 104 exchange.
3. In 1972 I obtained a Telecommunications Technicians Certificate. In 1975 I obtained a Certificate of Technology with specialist studies in electronics and communications. I have also attended many Telecom provided courses relating to specific areas of work and equipment within the Telecom network (for example, in relation to AXE and ARF exchanges and RCM systems).
4. In February 1994 I left Telecom to further my studies.

#### **MR SMITH**

5. Mr Smith initially made complaints concerning his telephone service to Telecom's 1100 fault reporting number. Complaints made to 1100 that may have related to the Portland exchange were generally referred to me.
6. I regularly telephoned Mr Smith particularly during 1992 and 1993 to clarify the details of complaints he had made in relation to his telephone service. I never experienced any abnormal problems in attempting to telephone Mr Smith.

**Cape Bridgewater RAX**

7. Until August 1991, Mr Smith's telephone service was connected to the Cape Bridgewater Rural Automatic Exchange ("RAX"). The RAX switched its local Cape Bridgewater telephone traffic and telephone traffic to/from Cape Bridgewater was switched via the Portland ARF exchange. There were 5 outgoing circuits and 5 incoming circuits between the RAX and the Portland ARF exchange and therefore the RAX could facilitate a maximum of 5 incoming and 5 outgoing calls at any one time. It is important to recognise that Cape Bridgewater is essentially a rural area. In rural areas telephone traffic peaks occur after 6:00 pm when farmers have finished their work. People seeking to make bookings with Mr Smith's camp (such as school teachers) would generally require telephone access to Mr Smith during office hours of 9:00 am to 5:00 pm. In rural areas traditional business hours are periods of low telephone traffic. Accordingly, any congestion caused by the 5 in and 5 out limit of the RAX would have had a minimal effect on Mr Smith's telephone service during traditional business hours.

**Portland to Cape Bridgewater RCM systems**

8. Since August 1991, Mr Smith's telephone service at Cape Bridgewater has been connected to the Portland AXE 104 exchange by an RCM system. The Portland to Cape Bridgewater RCM system is in fact made up of 3 separate RCM systems, each of which is capable of holding a maximum of 30 subscribers.

9. After the Portland to Cape Bridgewater RCM systems were installed, I became aware that the performance of the systems could be measured using the facility known as CRC. I checked the CRC error counters regularly between the date the RCM systems were installed and February 1994 when I left Telecom. Checking the CRC counters in this way was a normal maintenance practice. I can recall checking the CRC counters prior to March 1993. When I checked the CRC counters pre March 1993 I did not observe any errors that could have impacted upon the telephone service provided to Cape Bridgewater customers. A typical reading for each RCM system was 5 to 10 errored seconds, no degraded minutes and no severely errored seconds. I regularly checked the CRC counters for possible faults particularly when Mr Smith reported complaints.

10. Mr Smith's normal line (055 267 267), his facsimile line (055 267 230) and the line for his gold phone (055 267 260) were originally all on different subscriber cards in the same RCM system (number 1). In February 1993, in response to complaints from Mr Smith, I transferred both his 267 267 and 267 230 services from RCM system no. 1, connecting 267 230 to system no. 2 and 267 267 to system no. 3. These changes were made as a precautionary measure because if one of the RCM systems went down Mr Smith would still have two telephone services in operation.

11. Mr Smith's telephone service was of a good standard as would be expected with the Cape Bridgewater to Portland RCM system.

12. The Portland to Cape Bridgewater RCM system provides Cape Bridgewater customers with a direct connection to the Portland AXE 104 exchange. As a result, Mr Smith's telephone service system is clearly one of the most advanced and best systems available to Telecom's rural customers.

## Recorded Voice Announcements

13. In digital exchanges all numbers that are not recognised as a legitimate number result in recorded voice announcements ("RVA") being sent to the originating caller. In analogue exchanges originating callers receive number unobtainable tones in the same circumstances. In 1991/92/93 the conversion of Telecom's network from analogue to digital technology was occurring throughout country Victoria. As a result, the likelihood of customers receiving RVA when calling customers in country Victoria (for example, when dialling incorrect numbers) increased. This could account for an increase in RVA complaints coming to my notice during the 1991/92 period.
14. In March 1992 Mr Smith did have a genuine problem with RVA which was caused by a data entry problem at Telecom's MELU exchange. This fault existed for less than three weeks and came to Telecom's attention due to complaints being received from several Cape Bridgewater customers including Mr Smith.
15. I am aware that a file note exists dated 24 July 1992 which records that I told Mr Tom Leydon of Telecom's Network Management in relation to RVA that:  
*"Network Investigation should have been bought [sic] in as fault has gone on for 8 months."*

This note refers to the occurrence of RVA in the entire Telecom rural network after conversion of analogue to digital and does not relate to Mr Smith. I refer to and confirm the matters set out in section 3.3.1 of Briefing paper B 004 which deal with the effect of the MELU condition on the services to Mr Smith.

16. Subsequent to March 1992 my practice was to initiate test calls from the exchange of an incoming call reported by Smith to be affected by RVA. The object of these test calls was to test the standard of the services provided to the Portland exchange. The number of test calls varied between approximately 10 and 100 on each occasion. No problems were discovered as a result of this testing.

## NNI Investigations

17. Despite extensive investigations conducted by myself and other local Telecom staff, in the July 1992 Mr Smith still believed his telephone service was not performing satisfactorily. I therefore requested that Telecom's National Network Investigation group ("NNI") conduct a full investigation. NNI investigated Mr Smith's service in 1992 and ran approximately 35,000 test calls. These test calls were first made to a line located initially in Portland and later at the Cape Bridgewater end of the Portland to Cape Bridgewater RCM. The service number for this test line was 267 211. Sometime in August 1992 we also set up a test line all the way to Mr Smith's premises. The service number for this test line was 267 230 and this line was later provided to Mr Smith for him to use as a facsimile and outgoing line.
18. The thousands of test calls conducted by NNI did not locate any network problems which could support Mr Smith's concerns about his telephone service.
19. On or around 19 August 1993, NNI's David Stockdale asked me to remove the MCT facility off Mr Smith's service. I immediately removed the MCT facility off Mr Smith's 267 267 incoming line. However, I did not at that time recall that the MCT

facility was also connected to Mr Smith's 267 230 line and the facility was not removed from this line until 7 September 1993.

20. At the beginning of NNI's 1993 investigation, NNI's David Stockdale and Hew Macintosh visited Mr Smith's camp to discuss concerns that Mr Smith had with his telephone service. At the conclusion of this visit, a briefcase belonging to Mr Macintosh was left at Mr Smith's premises. After retrieving the briefcase from Mr Smith the following day I sat in my car to check the contents of the case. Whilst doing so Mr Smith came out to the car and gave me a file which had previously been in the briefcase. There was no doubt that Mr Smith had looked at what was in the briefcase and from ELMI call data records it can be seen that after acquiring the briefcase Mr Smith's facsimile line was particularly busy.

#### EOS Tracing

19. For a period of several months random voice monitoring was undertaken by myself on incoming calls to Mr Smith's 267 267 telephone line. The monitoring was undertaken to assist in the identification of reported problems to this service. On each occasion the monitoring confirmed that incoming calls to Mr Smith's telephone were effective and successful except when Mr Smith was engaged on another call and on at least two occasions when Mr Smith's phone was left off the hook.

#### Visits to the Cape Bridgewater Holiday Camp

20. I attended Mr Smith's camp on a number of occasions to install ELMI line testing devices and self answering equipment and to pick up ELMI tapes containing call data. I recall that on one occasion in 1993 when I arrived at Mr Smith's camp, Mr Smith was talking to someone on his telephone and subsequently ended this conversation. Shortly thereafter Mr Smith received an incoming telephone call and I heard Mr Smith tell this incoming caller that "he had not just been on the phone" (or words to that effect).
21. On Wednesday 8 September 1993 Ross Anderson and myself attended Cape Bridgewater Holiday Camp to pick up call data tapes that were produced by the ELMI equipment we had installed at the camp. It was usual for us to pick these tapes up on a Wednesday and, as a courtesy, we attempted to ring Mr Smith's 267 267 number prior to our visit. However, Mr Smith's line was giving an engaged tone and we decided to go out to the camp anyway. When we arrived we went into the room where the ELMI equipment was and checked the line which indicated the telephone was "off hook" by reference to the term "H-OFF". I asked Mr Smith if his telephone was off the hook and Mr Smith quickly walked to his office to investigate. From a distance I observed Mr Smith reach over to where his telephone sat. As a result of Mr Smith's action the ELMI equipment printed "H-ON" which we interpret as "phone on hook". I therefore concluded that Mr Smith's telephone had been off the hook.

#### Increase software blocks

22. In March 1993, it became apparent that the Warrnambool AXE exchange did not have enough software blocks to handle all of its traffic during peak periods. This condition only occurred during peak traffic periods at the Warrnambool AXE exchange and would have resulted in all customers whose calls were switched through the Warrnambool AXE exchange to intermittently experience congestion tone if they originated the call or one burst of ring and dial tone on lift off if they were being called. Software deficiencies such as this are addressed by Telecom

AXE staff at Ballarat as soon as fault reports indicate a problem or a result of routine checking of software blocks. The need to increase software blocks occurs as traffic through an exchange increases. This is a normal requirement as a result of increased traffic.

### No Lock Ups of Mr Smith's Line Interfaces

23. From mid 1990 to February 1994, over which period I was responsible for the Portland exchange, I did not encounter a locked up line interface ("LI") for any of Mr Smith's services.

### Problems calling Cape Bridgewater from Portland Hospital

24. I am aware that Mr Smith has made some issue of the fact that in September 1993 the Portland Hospital had difficulties calling Cape Bridgewater numbers. A Further investigation subsequently revealed that a PABX at the hospital was at fault. This problem with Hospital's privately owned customer equipment was remedied by Telecom staff.

### Conclusion

25. During the period that I was maintaining the Portland exchange my file containing details relating to Mr Smith's service complaints was of a similar size to my file for the other 7000 odd subscribers connected directly to the Portland exchange.
26. From my experience in dealing with rural Telecom exchanges, both during my time with CNE and whilst in Portland, it is my opinion the performance of Telecom's network in the Portland district is above average compared to other rural exchange networks. In my opinion customers in the Portland district, inclusive of Cape Bridgewater customers, were provided with a most satisfactory telephone service.
27. The standard of services provided to Mr Smith was entirely consistent to be a very good level of service provided to other rural customers.
28. Throughout the whole of my service at Portland Mr Smith's complaints have always been investigated in a professional manner. All possible assistance has been given by Telecom personnel to Mr Smith. Considerable efforts have been made to ensure that the telephone service provided to Mr Smith are of a high standard.

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

DECLARED at Melbourne )  
in the State of Victoria )  
this 2<sup>nd</sup> day of December 1994. )



Before me:



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





AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

28 July 1983

Mr D Hambleton  
Group Manager - Regulatory  
Telstra Corporation

Facsimile No: (03) 634 8842

Dear Mr Hambleton:

In my letter of 9 June I asked for a copy of all documentation left inadvertently at Mr Smith's premises. Details relating to Mr Smith and Mr Dawson were provided on 20 July. It has now been suggested that there was other documentation in that file. Would you please clarify this issue and if so, arrange for a copy of the other documentation to be made available to me immediately.

Again in my letter of 30 June I asked for early advice on a start date for monitoring of specified clients and prior notice as to the monitoring equipment proposed. The commencement of the monitoring cannot be further delayed and I request that these details be settled this week.

Further complaints have been received about the service provided through the Fortitude Valley exchange. Attached please find documentation from -

[REDACTED]

A08334

Melbourne, August. 12 - 1993

Dear Sue Smith.

I tried to ring you in order to confirm our stay at your camp site. However when I did this I found it impossible to get through since it was engaged for several hours. I tried to ring again later but encountered the same signals, on the 10<sup>th</sup> of August around 7 P.M. to 8.30 P.M. -

I believe you have a problem with the exchange and strongly advise you contact Telecom.

• Do you remember the same problem happens on April and May?

I apologise but I have made arrangements with another camp.

Yours sincerely

Jia Pajiroze.

Doncaster: SMITH

1920 17/6.

Tried to ring over a long  
period of time

055267267 — never  
seem to be there.

Elisie 723-6994  
Lita Stenoya. 848-9482

Maybe about last 3 weeks or  
a month.

Only uses Answering Machine after  
5 pm.

Normally girl at premises of  
Smith is in Melbourne. When she  
leaves at 5.30 then answering machine  
goes on

K03870

34 B

The following FOI document, not numbered, clearly shows that the writer knew where this caller usually rang from even though, on this occasion, the caller was phoning from a different number, "somewhere near Adelaide". How could the writer have this information, if someone hadn't listened to this call to find out who the caller was?

2/6 [redacted] → 055 267 80. at 6:40 pm  
→ caller usually from this N<sup>o</sup> but supposedly  
'somewhere' near Adelaide on this occasion.  
2/6 F 27 - 18:21:22.991 for 0864 ... Answered, CBK after 7 min 6s  
F 27 - 18:18:54.828 for 0864 - Answered, CBK after

34C

Later in 1993 a Mrs Cullen from Daylesford Community House contacted me to let me know that she had tried unsuccessfully to phone me on 17 August 1993; first at 5.17 pm and again at 5.18, 5.19 and 5.20. Each time she phoned she reached a dead line. After the fourth unsuccessful attempt Mrs Cullen had reported the fault to Telstra's Fault Centre in Bendigo on 1100. She spoke to an operator who identified herself as Tina. Tina then rang my 008 number and she couldn't get through either.

Telstra's hand-written memo, dated 17/8/93, reports Tina's attempt to contact me and refers to Mrs Cullen's complaint to 1100, recording the times that Mrs Cullen had tried to get through to my phone.

File - Mrs Smith's call of 17.8.93. at 5.35pm.

Enough in tonight.

Tina from Bendigo.  
(Telcom)

~~could not contact her at the~~  
put her through

A lady was trying to ring him  
for Daylesford. Jackie.

a beautiful 053 483 58  
Daylesford Community Centre  
Neighbourhood House

at 5.17, 5.18, 5.19 5.20 on 17.8.93.

008 816 522.

She got a dead line -

Alan heard it ring 5 <sup>times</sup> ~~single times~~  
(2 or 3 rings)

- picked up the phone  
heard a echo.

Had trouble free in the end.  
No answering machine.

1 passed on to Charlie Van Babel  
who will attend to the matter

Rev

17/8/93.

1 confirmed this with Mrs Smith (by ringg to 008 line)

Rev

K03096

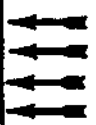
35A

23  
Talking Home  
- 267237

Document R11519 is a copy of my itemised 008 account, including 17/8/93. It is quite clear that I was charged for all four of these calls, even though Mrs Cullen never reached me. All this information was duly passed to John MacMahon of Austel.

**008 - National Direct Dialed calls**

	Date	Time	Origin	Destination	Rate	Min/Sec	
	Termination point 090287287						
3-1	12 Aug	11:49 am	08	055287287	Day	12:16	3.78
3-2	12 Aug	12:18 pm	03863	055287287	Day	5:31	1.70
3-3	12 Aug	01:16 pm	08	055287287	Day	4:04	1.25
3-4	12 Aug	08:18 pm	03726	055287287	Night	4:02	0.98
3-5	12 Aug	08:22 pm	03726	055287287	Night	0:59	0.12
3-6	13 Aug	09:58 am	08	055287287	Day	12:17	3.79
3-7	16 Aug	11:03 am	08	055287287	Day	3:34	1.18
3-8	17 Aug	04:00 pm	08	055287287	Day	0:18	0.06
3-9	17 Aug	04:27 pm	08	055287287	Day	8:03	2.48
3-10	17 Aug	08:19 pm	08	055287287	Day	0:12	0.06
3-11	17 Aug	03:20 pm	08	055287287	Day	0:22	0.12
3-12	17 Aug	05:20 pm	08	055287287	Day	0:28	0.14
4-1	17 Aug	06:21 pm	08	055287287	Day	0:17	0.08
4-2	17 Aug	08:29 pm	08434	055287287	Day	1:28	0.44
4-3	17 Aug	08:28 pm	08434	055287287	Day	1:19	0.38
4-4	17 Aug	08:50 pm	03862	055287287	Day	0:36	0.18
4-5	17 Aug	07:01 pm	03862	055287287	Night	8:34	1.38
4-6	17 Aug	07:14 pm	03862	055287287	Night	0:25	0.09
4-7	17 Aug	07:18 pm	03862	055287287	Night	2:14	0.47
4-8	17 Aug	07:21 pm	03862	055287287	Night	0:32	0.11
4-9	17 Aug	07:39 pm	03863	055287287	Night	0:28	0.08
4-10	17 Aug	08:28 pm	08	055287287	Night	18:24	3.24
4-11	18 Aug	08:18 am	03863	055287287	Day	8:52	2.72
4-12	18 Aug	10:48 am	08	055287287	Day	3:20	1.03
5-1	18 Aug	08:12 pm	03863	055287287	Day	0:19	0.05
5-2	18 Aug	08:12 pm	03863	055287287	Day	0:08	0.04
5-3	18 Aug	08:13 pm	03863	055287287	Day	11:40	3.90



Continued page 3

**Are you having difficulties paying?**

If you are having difficulties paying your bill, please call us during business hours on the 1800 800 000. Payment assistance options available for residential customers include more frequent billing, the Budget Account Plan or other arrangements.

**Metered calls**

Includes Local calls and other calls not available on pay-per-call.

A meter connected to your service at the local exchange records the call charges in units. Each unit is the price of a 3-minute call.

Bankcard    Mastercard    Visa    Redcard  
Card number

**Are you moving?**

Now is the time to check the Telcom Office that you will be using in your new area.

Entry Date    Signature

Telcom Offices are listed in the Yellow Pages of the White Pages Telephone Directory.

R11519

35B

Telecom

Cape Bridge Under  
Holiday Camp?

Dear Sirs,

This letter is to say that the phone in the main hall is in need of replacement repair.

I've rung a Melbourne No 03 488 3542

- I placed \$1.70 in the phone. On answering, the phone dropped to \$1.40 without warning or a further drop in price. The phone went dead. I went to get more change as the call was of a serious nature.

The phone refused to take any of the money. I then wondered if the LED for the money was faulty and attempted to ring through. I then tried ringing through using the follow on button etc.

- Finally enough eventually the money did fall out of the slot and I was able to ring through to Melb.

The call was made on the Mon or Tues. I have lost track of time during my stay. It is now Sat.

Yours Truly,

Steve A Borlind

053.48.3079

Dunfermline

35c

Pinel, Don

From: Pittard, Rosanne  
To: Hambleton, Dennis V  
Cc: Pinel, Don; Campbell, Ian; Marshall, Ross  
Subject: AUSTEL DIRECTIONS REGARDING COT CASES  
Date: Thursday, 19 August 1993 5:02PM

I believe the directions from Austel regarding COT cases have a number of shortcomings and misunderstandings and believe these need to be addressed.

1. The requests for files and other documents are onerous. How far back do we go? Some of these cases go from before Austel had any jurisdiction (even existed). How much do they want? A warehouseful is not out of the question. Who will copy these? I don't have resources or money for agency people to spend time photocopying. Will Austel pay? (The last question was a joke - I know the answer.)
2. Some of the documents on the files are Telecom Secret, some are Legal professional privilege. Some have been used in a court case (settled out of court); some are still with the lawyers. Some papers relate to settlements with non-disclosure clauses. Where do we stand with these? I believe we should quarantine any papers associated with legal action, refuse to supply papers associated with settlements and refuse to supply any papers marked Legal professional privilege - but we should seek legal advice on same.
3. The results of the tests are a concern to me. What confidentiality will be guaranteed? Austel has had close contact with these customers - what will ensure they don't pass test results on? What are the legal implications if they do?
4. What is Austel's capability to interpret the results and reports? What standards will they compare them with? (There are none) What will their reaction be to a failed call? Within acceptable limits or not?
5. What conclusions will they dare to draw? If they conclude that Telecom was in some way negligent or at fault, there are serious implications for our liability; we could be vulnerable to some form of action by the COTS - would the Austel report be admissible as evidence?
6. What promises have been made to the COTS as a result of the testing? None I hope.
7. The testing at customers premises causes great difficulties for us. Test equipment of this sort is very expensive; NNI informs we do not have enough to do this testing for all these customers at the one time. In addition it would tie up a valuable resource which is required in other cases where we consider customers have a legitimate condition which requires monitoring.
8. In addition these machines do not work well at customers premises because of power supply conditions; these power supply conditions can actually cause incorrect readouts.
9. There have been instances with some of the customers at issue, where the customer has interfered with the machine - eg., switching the machine off, tearing off the printout and sticking it back together with parts that don't appear to match.

I know I have raised many questions, but they are all important. The most critical is what happens with the results and how can they be used in resolving these cases.

I know your interim reply to John Macmahon addresses some of these, but I am concerned that we will be locked into something with no way forward.

Rosanne Pittard



Internal Memo



To

[REDACTED]  
[REDACTED]  
ADMINISTRATION

From HARVEY PARKER

Group Managing Director  
Commercial & Consumer40/242 Exhibition Street  
MELBOURNE VIC 3000  
AustraliaSubject COT CASES AND  
AUSTEL

File PRMIN001.doc

Date 19 August, 1993

Telephone 03 634 6454  
Facsimile 03 634 4587

Distrib.

~~Dist.~~

I refer to the COT cases and Austel's related direction to Telecom (refer Dennis Hambleton's letter of 13.8.93). I have been fully briefed by Commercial management on this issue. As you may be aware, Ian Campbell and Jim Holmes have previously been the senior managers with carriage of these cases. It is my intention that Ian Campbell remain the representative for Commercial and Consumer dealing with these cases, and it may be appropriate that he lead the team on behalf of Telecom. I seek your views on this issue and the nomination of the Corporate representative, who would work with Ian.

Austel's direction has enormous workload implications (notwithstanding technical constraints and misunderstandings) and also has significant legal complications. Some of the material sought is under Legal Professional privilege. There could be a difficult situation regarding legal liability for both Telecom and Austel were Austel to determine some fault on Telecom's part. Were Austel to determine no fault, the direction gives no clear way forward. For these reasons, it may be appropriate for Ian Campbell and your nominee to meet with Robyn Davey of Austel, at the earliest possible date to develop a way forward.

In addition, it would appear that Austel has not been abiding by established rules for interacting with Telecom and have sought information direct from many levels in Telecom including arriving unannounced at a meeting with Telecom technicians and one of its customers. Austel should be reminded of the appropriate procedures and an assurance sought as to their commitment to these procedures. This reminder should properly be issue via the Company Secretary.

Harvey Parker  
GMD Commercial and Consumer

A08308

36B

The situation with regard to the briefcase incident is as follows.

The briefcase contained the following papers

- file on Smith
- file on Dawson
- file on a Mrs Dover
- some loose papers on retrofit programs for transmission equipment

The files on Smith and Dawson have been provided to Austel via Craig Downing of Regulatory at the request of Austel following a meeting with Austel on the issue. The other papers were not requested and not provided.

An assessment of Smith and Dawson files indicated that all matters could be satisfactorily explained.

Subsequently it was realized that the other papers could be significant and these were faxed to Craig Downing but appear not to have been supplied to Austel at this point

The above papers on retrofit could be sensitive and copies of all papers have been sent to Ross Marshall.

David Shepherd

From: Piniel, Don  
To: Shepherd, David  
Cc: Campbell, Ian; Holmes, Jim; Hambleton, Dennis V; Marshall, Ross  
Subject: The Briefcase  
Date: 23 August 1993 21:57

Would you please confirm that all necessary steps are being taken to identify the contents of the briefcase left at Alan Smith's premises and that these documents are provided to Commercial Business and to Austel per Regulatory.

Telecom is in receipt of minutes from Austel that suggest that not all documents have been provided as requested. Copies of Austel correspondence is available if required.

Don

R09830

37A

would have affected approximately one third of subscribers receiving a service of this RCM. Given the nature of Mr Smith's business in comparison with the essentially domestic services surrounding subscribers, Mr Smith would have been more affected by this problem due to the greater volume of incoming traffic than his neighbours. (A summary of the circumstances surrounding the RCM fault are detailed under Allegation (iii)).

- 47 Telecom's ignorance of the existence of the RCM fault raises a number of questions in regard to Telecom's settlement with Smith. For example, on what basis was settlement made by Telecom if this fault was not known to them at this time? Did Telecom settle with Mr Smith on the basis that his complaints of faults were justified without a full investigation of the validity of these complaints, or did Telecom settle on the basis of faults substantiated to the time of settlement? Either criteria for settlement would have been inadequate, with the latter criteria disadvantaging Mr Smith, as knowledge of the existence of more faults on his service may have led to an increase in the amount offered for settlement of his claims.

#### **Allegation (ii) Failure to keep clients advised**

##### **Introductory Comment**

- 48 AUSTEL has been hampered in assessing Telecom's dealings with Mr Smith by Telecom's failure to provide files relating to Mr Smith's complaints. A file from the local Telecom area who first dealt with Mr Smith's complaint has not been provided to AUSTEL, although documents from this file have been copied to other files. At the time of writing, no explanation for the failure to provide this file or other files has been received from Telecom.<sup>30</sup>
- 49 As a result of Telecom's failure to provide file documentation relating to Mr Smith some of the following conclusions are consequently based on insufficient information. The information which is available, however, demonstrates that on a number of issues Telecom failed to

<sup>30</sup> May need to be re-written if other information comes to light.

knowing it, as identification of the problem is dependent on reports from other people to that subscriber of he or she not answering their phone at a given time. Often such a report may be made some time after this call was attempted, and the subscriber may not be able to remember the specific details of what they were doing when the call attempt was made, and so assume they were absent when the call attempt was made. In this context, information from the Cape Bridgewater area of 6 out of 11 subscribers indicating they had experienced the NRR problem is very significant, particularly from an area with the subscriber profile of Cape Bridgewater (refer heading above "Comparative Uniqueness of Cape Bridgewater Holiday Camp Service" for comments on subscriber profile in area).

135

- 69 It is not known what action, if any, was taken by Telecom at this time to identify the cause of the NRR problem which was suggested by the survey, or whether an actual fault was subsequently identified. It is therefore not known whether Telecom was in a position to inform Mr Smith of a NRR problem in the area. Mr Smith maintains that he has never been informed by Telecom of other people in his area who have experienced the NRR problem.<sup>33</sup>
- 70 In June 1991, after a fault complaint from Mr Smith, a faulty final selector was detected in the old RAX exchange.<sup>34</sup> The fault could have caused NRR. The information on the fault rectification comes from a briefing summary prepared in September 1992, which states:

*Other customers reported problems over several days preceding the detection of this fault which would indicate that the switch could have been faulty for a maximum of two to three days.*

- 71 (AUSTEL has not been provided with the documents on which the conclusions in this briefing summary were reached, such as fault reports from other Cape Bridgewater subscribers over this period or the details of the faulty final selector fault. It would have been

<sup>33</sup>Need to identify or obtain quote from Smith to support this argument - not sure if has provided formal statement re this.

<sup>34</sup>From Smith briefcase file - front page - briefing to persons unknown.

- 1 SEP 1993

**Pittard, Rosanne**

---

**From:** Pinel, Don  
**To:** Pittard, Rosanne; Marshall, Ross  
**Subject:** Technical Options  
**Date:** Wednesday, 1 September 1993 9:33AM  
**Priority:** High

Ross, Rosanne,

Ian has asked me to put together a small team urgently to look at imaginative technical options for the COT customers to address their concerns. An example would be a fixed mobilenet service with appropriate call diversion facilities, diversions to PAS on busy or no answer, radio options out of area service with call diversions etc. I think we need a good network engineer, a top cc and a good lateral thinker. Can you nominate someone please?

Ian's time on this is to have some options by next Monday and a speedy implementation.

Don

COT  
—

37c

**Marshall, Ross**

**From:** Pinal, Don  
**To:** Marshall, Ross  
**Subject:** FW: RVA ON CALLS TO CONNECTED NUMBERS  
**Date:** Wednesday, September 08, 1993 10:06AM  
**Priority:** High

Ross,

There seems to be an opinion that calls from ARF or ARF to AXE have a protocol problem that results in significant call failures. Do you have any info on this? //

Don

**From:** [REDACTED]  
**To:** Pinal, Don  
**Subject:** FW: RVA ON CALLS TO CONNECTED NUMBERS  
**Date:** Wednesday, 8 September 1993 9:28AM  
**Priority:** High

don

Here is the first of the info. The forwarded message show an example of the RVA problem.

As i mentioned in the messagebank last night my test produced a 7.5% fail to connect ( blackhole) I will forward copy of the test as soon as i get xtree to view it

Regards

**From:** [REDACTED]  
**To:** [REDACTED] ryl  
**Subject:** FW: RVA ON CALLS TO CONNECTED NUMBERS  
**Date:** Wednesday, September 08, 1993 9:18AM

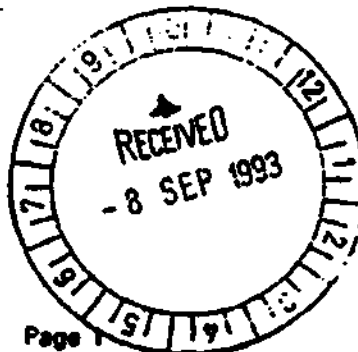
**From:** [REDACTED]  
**To:** [REDACTED] ryl  
**Subject:** RVA ON CALLS TO CONNECTED NUMBERS  
**Date:** Tuesday, 7 September 1993 5:06PM

Here is an example of an rva on a call to a connected number, the exchange types may give you a clue as to what the incompatibility may be.

076 615 790 ARF calling 076 617 200 AXE

1st attempt	RVA NUMBER NOT CONNECTED
2nd attempt	BUSY
3rd attempt	RVA NUMBER NOT CONNECTED
4th attempt	Connected ok, was not busy previously.

regards



38

A02303

CONFIDENTIAL

FREEHILL  
HOLLINGDALE  
& PAGE

CONFIDENTIAL

Melbourne Office

To:	Ian Row Corporate Solicitor Telecom Australia	From:	Denise McBurnie
At:		Direct line:	(03) 288 1383
		Switch:	(03) 288 1234
To fax:	634 8832	From fax:	(03) 288 1567
		Date:	10 September 1993
Phone:	634 3300	Matter No:	1660521
Page 1 of		Pin No:	274
		Approval:	<i>Denise McBurnie</i>

The information in this facsimile is privileged and confidential, intended only for the use of the individual or entity named above. If you are not the intended recipient, any dissemination, copying or use of the information is strictly prohibited. If you have received this communication in error, please immediately telephone us (we will accept reverse charges) on:

(03) 288 1341 Fax (03) 288 1567 (International phone codes + (61 3)) or Telex AA33004  
and return the original facsimile to  
Level 43, 101 Collins Street, Melbourne VIC 3000 Australia

Dear Ian

N00749

"COT" Case Strategy

- \* As requested I now attach the issues paper which we have prepared in relation to Telecom's management of "COT" cases and customer complaints of that kind.
- \* The paper has been prepared by us, together with input from Duesburys, drawing on our experience with a number of "COT" cases. If there are any aspects of the issues paper which you would like us to expand upon or if there are any other issues you would like us to consider please don't hesitate to contact us. Both Freehills and Duesburys would be happy to assist you should any further presentations to Telecom management be required on any of the matters raised in the issues paper or with regard to any other matters concerning management of "COT" cases and customer complaints.

Yours sincerely  
FREEHILLS HOLLINGDALE & PAGE  
per:

*Denise McBurnie*

Denise McBurnie

Enc

copy to: Deanne Weir

39A

LEGAL PROFESSIONAL PRIVILEGECONFIDENTIAL/COMMERCIAL IN CONFIDENCE

The contents of this document are privileged and confidential and no part thereof shall be disseminated, copied or used without the express permission of the Telecom Corporate Solicitor.

A. PROFILE OF A "COT" CASE

Set out below are some of the common characteristics attributed to "COT" cases. The particulars are drawn from FHP's experience with the following "COT" cases:

- Golden Messengers/Graham Schorer
- Tivoli Theatre Restaurant/Ann Garms
- Japanese Spare Parts/Ann Gillan
- Cape Bridgewater Holiday Camp/Alen Smith

It should be recognised, however, that this list is neither definitive nor exhaustive of those characteristics.

Common Characteristics

1. Single operators of small businesses generally operating in service industries. If partnerships are involved it is usually a husband/wife partnership.
2. Questionable business stability or viability regardless of alleged telecommunications problems.
3. Common distrust of Telecom's network performance and distrust of Telecom's claims that network performance accords with "acceptable standards".
4. Claims of dissatisfaction by the claimant as to the handling of the case by Telecom.
5. Distrust of Telecom's testing procedures. N00750
6. Numerous faults alleged, and claimed to be supported by documentary evidence collected by the claimant, but which do not match Telecom's fault reporting records.
7. A high level of understanding (acquired by experience) with FOI procedures and the procedures involved in accessing Telecom documentary information. However, this level of understanding is not necessarily matched with the ability to accurately or correctly interpret the information obtained.
8. There is usually a reluctance to pursue a claim through court action. Apparent or claimed reasons being:
  - cost
  - difficulty of proof
  - claim has a component relating back to when Telecom's statutory immunities applied
  - Telecom's size and ability to defend action proves to be oppressive.

39A



**MEMORANDUM OF ADVICE: PRIVILEGED AND CONFIDENTIAL - Advice on Legal Professional Privilege - re CoTs**

- (i) The cases of *NCA v S* and *Esso*, referred to above, make it clear that a claim to privilege must expose sufficient facts to justify the claim. A vague or bald assertion of the privilege is seen as no claim at all.
- (ii) The definition of privilege indicates that only communications between a lawyer and a client for the dominant purpose of providing or receiving legal advice or for litigation (and communications between a lawyer or client and a third party for the dominant purpose of litigation) will be protected by privilege (see *Baker v Campbell* and *Esso's* case referred to above).

It is difficult to see how a document, or documents, merely described as "Network Data" would fall within the definition of a communication between a lawyer and client for the dominant purpose of advice or for litigation, or communication between a lawyer or client and a third party for the dominant purpose of litigation.

There appear to be 39 claims to legal professional privilege, which are merely listed as LPP in *Attachment 1*, being further detailed in *Attachment 2*. Further, there appear to be 74 claims to legal professional privilege listed in *Attachment 2* (it is not clear why there is such a variation between these two amounts of claims). A perusal of the file descriptions in *Attachment 2* indicates not only incomplete and inadequate claims to privilege but also claims which appear to be erroneously made.

For example, it is difficult to see, without further information being supplied, how a "Chart - Call analysis with handwritten annotations", a "Map - Bova Enterprises Call per exchange", a "Table - Bova's directory listings" or a "Fax confirmation report" could be covered by legal professional privilege.

**(3) made defective or erroneous claims to privilege, and/or**

There is also some evidence of (3) i.e. making defective or erroneous claims to privilege.

For example, in the letter from Mr John Armstrong of Telstra to Mr Ross Plowman dated 28 September 1998, Telstra concedes that it has erroneously classified some documents as privileged.

**(4) knowingly made false or spurious claims to privilege?**

There is also some potential prima facie evidence of (4) i.e. knowingly making false or spurious claims to privilege. For example, there is a potential structure set up for the possible abuse of the doctrine of legal professional privilege in the faxed document entitled "COT" Case Strategy, marked "Confidential" dated 10 September 1993 from Ms Denise McBurnie of Freehill Hollingdale and Page, Melbourne Office to Mr Ian Row, Corporate Solicitor, Telecom Australia.

I refer in particular to section 4 on page 6, which states:

"Of critical importance in the constitution and function of the DMA (Dedicated Management Area) is the direction of the first referral of the claim by Business Unit Management. The initial point of referral should always be to the Corporate Solicitors Office. This is in order to bring into operation the potential protection of legal professional privilege for documentation and other reporting procedures. It may also be appropriate for the Corporate Solicitors Office to continue as the point of referral and control in order to maintain legal professional privilege (where possible). Over information and documentation created during the handling of the 'COT' case."

LEGAL OPINION

39B

TELECOM CONFIDENTIAL



Facsimile

To Cot Case Project Team.

From Trevor Hill  
Manager Co-ordination &  
Performance Reporting

Corporate Strategy  
Regulatory

Locked Bag No. 4930  
Melbourne Vic 3100

Australia

Telephone (03) 634 8888  
Message Bank  
Facsimile (03) 634 8842

Facsimile Speed Dial

Company

File HRH 293

Location

Date 13 September, 1993

Distrib.

Total Pages 13

Freehill's Issues Paper re Cot Case Strategy.

The attached paper has been supplied by Freehill's, via Ian Row.

I don't believe that Jim Holmes was able to circulate a copy prior to his departure today to attend the Austel/Cot Case public meeting in Brisbane.

Referred for information.

*Trevor Hill*  
Trevor Hill.

The information contained in this facsimile message may be confidential information. If you are not the intended recipient, disclosure or copying of this document is prohibited. If you have received this document in error, please telephone (03) 634 8870.

39C  
Telstra Corporation Limited  
ACM 011 775 556

A10683

eat

Holmes, Jim

From: Pinal, Don  
To: Holmes, Jim  
Subject: Legal Resource  
Date: Tuesday, 21 September, 1993 12:39PM

AC0075

Jim,

Met at length with Freehills this morning (Ian Row was there). I have arranged for Denise McBurnie to provide legal input to the project and suggested that she come to tomorrow's meeting to meet the players and pick up the threads. She will also spend some time here tomorrow morning reviewing recent correspondence. I want her to be the focus for dialogue with the customers. Would like to talk to you about this, preferably before I see Harvey this afternoon.

Don

40A

→ Jan 11/1993

**Domzal, Nora**

**From:** Pinel, Don  
**To:** Seyer, Janet; Beattie, Ken; Pittard, Rosanne  
**Cc:** Brabazon, Paul; Holmes, Jim; Hambleton, Dennis V; Hill, Trevor; Halliday, Trevor  
**Subject:** Customer correspondence  
**Date:** Thursday, 23 September 1993 8:58PM

DA 25/9

In the current climate Telecom needs to be particularly careful with its correspondence to the CoT customers. I have engaged Denise McBurnie from Freehills to participate on an "as required" basis in this matter and it is appropriate that all correspondence from the CoT (and near CoT) customers should be channeled through Denise for either drafting of a reply from Telecom or for reply direct from Freehills as our agent. The particular approach will vary from customer to customer and circumstance to circumstance but the general philosophy should be followed.

The merit of this approach is:

- It relieves the Regions of onerous correspondence
- It applies a rigorous legal regime to the dialogue
- It provides a consistent approach to these matters

Would you please ensure that with all customers that are, (or have the potential to become) serious complaints, correspondence is processed through Freehills with initial acknowledgement by the Region.

Ultimately, the response to customer correspondence is a matter for Regional decision but I would encourage serious consideration of Freehills advice and discussion with either myself or Jim Holmes if an alternative approach is preferred.

Don

F03022

40 B



AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

92/596(6)

28 September 1993

Mr Frank Blount  
Chief Executive Officer  
Telstra Corporation Ltd

Fax 632 3336

Dear Mr Blount

### COT CASES

It appears to me quite reasonable for the *COT Cases* Spokesperson, Mr Schorer, to express the frustration that he does in his attached letter, dated 27 September 1993, at possibly having to deal with Telecom's solicitors rather than with Telecom personnel direct.

As I understood it, "Telecom has given Ian Campbell personal accountability, as a very senior executive, to manage all aspects of the *COT Cases*" (letter, dated 24 August 1993, JF Holmes, Telecom's Corporate Secretary, to me).

↓ Telecom now appears to have done a "back flip" by instructing its solicitors, Freehill Hollingdale & Page, to inform Mr Schorer that he must "... address any concerns of a legal nature involving our client and your business, direct ..." to their office. While Freehill's letter of 27 September 1993 (copy attached) to Mr Schorer states that "... does not in any way preclude ... [him] ... from addressing non legal matters through the normal channels of communications previously agreed ..." between him and Telecom, it places Mr Schorer in the impossible position as a layman of having to distinguish between "concerns of a legal nature" on the one hand, and "non legal matters" on the other.

↓ My empathy with Mr Schorer's frustration is reinforced by Telecom seemingly ignoring an exhortation in my letter to Mr Campbell of 24 September 1993 that he should consider suggestions put on behalf of the *COT Cases* "... on their merits, not on a legalistic basis or on the basis that they may set some "floodgate" precedent, but in the spirit that the suggestions are made, namely, in providing some form of address and some form of resolution to what have been long standing concerns and issues."

As I indicated in my letter to Mr Campbell, there is a strong feeling among the *COT Cases* of a lack of good faith on Telecom's part. If Freehill's letter correctly reflects Telecom's instructions it can only serve to reinforce that feeling.

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

40C

While having regard to the amounts involved in the "commercial resolution" proposal put by Mr Schorer and three of the *COT Cases* I can understand Telecom wanting to get legal advice on the issues, the matter is more likely to come to a speedy resolution if direct lines of communication are kept open, if Telecom continues to talk direct to the *COT Cases* and hears their concerns first hand.

AUSTEL for its part is prepared to facilitate such communications and, if necessary, mediate on what I understand to be the next step in the "commercial resolution" proposal, namely, the parties agreeing on the terms of the proposal before its consideration at the "Executive Council" level within Telecom.

Mr Schorer has indicated his willingness for AUSTEL to adopt such a role if it is necessary. I await your advice whether Telecom is also willing for AUSTEL to adopt such a role if it is necessary.

What I am proposing should in no way be taken as prejudging the outcome of AUSTEL's investigation/report of the concerns expressed and issues raised by the *COT Cases* and others who have expressed similar concerns and raised like issues. I make the suggestion of AUSTEL facilitating advancement of Telecom's consideration of the *COT Cases* "commercial resolution" proposal now because the *COT Cases* are in dire financial straits and because, as I have said before, AUSTEL's investigation/report does not preclude Telecom from moving now to take steps to address concerns or resolve issues raised by individual complainants, or for that matter, those concerns and issues generally.

As Mr Schorer has sent a copy of the attached letter to the Minister for Communications and to Senators Alston and Boswell I am sending a copy of this letter to them.

Yours sincerely



Robin C Davey  
Chairman

40C

**DRAFT - IN CONFIDENCE**

Consumer will undertake an immediate inspection of all elements of the CAN and certify that the service is constructed in a manner that complies with standard practice. Any defects/abnormalities will be noted and corrected. Pairs will be "clean" between the exchange and the customer's premises with any common pairs cut away. Consumer will formally certify that the inspection has been carried out and record the results of their investigation.

Commercial will test the customer's service and record the test results. This test will be repeated at regular intervals (at least weekly) to ensure stability and consistency. Where appropriate, CPE will be tested. On occasions it may be desirable to install recording equipment at the customer's premises.

---

All technical reports that relate to the customer's service are to be headed "Legal Professional Privilege", addressed to the Corporate Solicitor and forwarded through the dispute manager.

---

The only contact with the customer will be by the dispute manager or the Regional Manger unless the MD Commercial chooses to become personally involved. All contacts with other individuals will be referred back to the dispute manager.

The Regional General Manager will ensure that all other elements of Telecom are advised of the declaration of a Category A dispute. The managers of these other elements will ensure that all parts of their organisation are aware of the existence of a dispute and that staff are advised that they are not to comment on the customer's service. On all occasions only staff with exceptional "intelligence" and who have been fully briefed on the dispute are to be assigned to any dealings with the customer or related activities.

It is important that operational systems (including DCRIS, LEOPARD, Service\*Plus) should be made capable of displaying an appropriate warning mark against the customer's record indicating that a sensitive customer dispute is in progress and identifying the dispute manager. Local instructions should be issued to advise staff to refrain from commenting on service performance issues but to refer these to the dispute manager.

SEP/-

COT1306.DOC

R0052<sup>4</sup>

41A

Revision 1.3

**FREEHILL  
HOLLINGDALE  
& PAGE**

Melbourne Office

<b>To:</b> Mr Don Pinel	<b>From:</b> Denise McBurnie
<b>At:</b> Telecom Australia	<b>Direct line:</b> (03) 288 1383
	<b>Switch:</b> (03) 288 1234
<b>To fax:</b> 07 221 7274	<b>From fax:</b> (03) 288 1567
	<b>Date:</b> 01 October 1993
<b>Phone:</b> 07 837 6072	<b>Matter No:</b> 001660539 <b>Pin No:</b> 274
<b>Page:</b> 1 of	<b>Approval:</b> <i>Denise McBurnie</i>

The information in this facsimile is privileged and confidential, intended only for the use of the individual or entity named above. If you are not the intended recipient, any dissemination, copying or use of the information is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone (we will accept reverse charges) on:

(03) 288 1341 Fax (03) 288 1567 (International phone codes + (61 3)) or Telex AA33004  
and return the original facsimile to  
Level 43, 101 Collins Street, Melbourne Vic 3000 Australia

Mr Alan Smith

Dear Don

I enclose a copy of the letter sent to Mr Alan Smith at 1.16pm today. I also confirm that I telephoned Mr Smith on phone number 055 267 267 and spoke to Mr Smith who confirmed that he had received the facsimile.

Yours faithfully  
**FREEHILL HOLLINGDALE & PAGE**

Per:

*Denise McBurnie*

Denise McBurnie  
Solicitor

*COT.*

A10539

**41B**



36. While in normal circumstances that might be a reasonable position for Telecom to adopt, the circumstances of the *COT Cases* are beyond the norm - if Telecom is satisfied that from its perspective the prior "... *individual settlements* ..." affected with the *COT Cases* were reasonable, it should not be concerned that an independent third party (the Circuit Breaker) might look at them anew. The terms of the *Settlement Proposal Mark II* enable the Circuit Breaker to make a finding to the effect that the prior "... *individual settlements* ..." were reasonable and, if so, the *COT Cases* would be bound by such a finding.

37. Also, as I understand it, the *COT Cases* claim, in effect, that when the prior "... *individual settlements* ..." were arrived at -

- not all relevant facts were taken into account
- they were under duress by virtue of their financial circumstances and forced to accept the settlements.

39. As a model corporate citizen Telecom would, no doubt, want all relevant facts to have been taken into account. The terms of the *Settlement Proposal Mark II* provide an opportunity to clear the air - they would enable the Circuit Breaker to test whether, as claimed by the *COT Cases*, all relevant facts were not taken into account and, to the extent they were not, to take them into account. Alternatively, the Circuit Breaker's investigation may confirm Telecom's position and from that perspective should be welcomed by Telecom.

40. Finally, if the attached letter (Attachment 'D') dated 7 July 1993 from Freehill, Hollingdale & Page to one of the *COT Cases*' 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. I say that because in the context of the letter their selective quotation of what were then Telecom's general conditions of trading misleadingly omit critical qualifications in the clauses they were relying on to deny liability.

41. This is not the first occasion that I have had to take Telecom to task for misleading statements of its liability in the context of the *COT Cases* generally - see my letters of 30 August and 9 September 1993 re Dawson's Pest & Weed Control and my letter of 20 September 1993 re The Gourmet Revolution. While I am addressing these occasions separately from my consideration of the *Settlement Proposal*, combined with Freehill, Hollingdale & Page's letter they do reinforce my view that there would be merit in Telecom adopting the *Settlement Proposal Mark II*.

42A

D01407

Attachment 4

Beaman, Nigel

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

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

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

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

Regards

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

Peter,

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

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

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

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

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

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

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

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

428

**Hill, Trevor**

---

**From:** Hill, Trevor  
**To:** Henville, Jenny  
**Cc:** Pinel, Don; Hambleton, Dennis V  
**Subject:** Austel Submission - Comments.  
**Date:** Thursday, 14 October 1993 10:58AM  
**Priority:** High

Graham Powles,

I regret that other Austel bush -fires this week have not allowed me to devote the time to review your submission to the extent that I would have preferred nor that your efforts deserved.

Initial comments are:

1. Exec Summary.

Background.

↘ We need to focus Austel's attention as much as possible on the current rather than the past level of service delivered to Cot Cases.

Para 8. - Instead of "was not as high as desired" change to "did not meet customer's expectations" ↙  
After "1993" insert new para. "A number of these settlements were only resolved after many meetings between the parties and were often enhanced by Austel's presence in its now stated role as "honest broker" "

At the end of the 3 dot points insert:

" It is these claims that are the basis for and focus of Austel's investigation into the current level of service quality experienced by these customers."

Para 14 - "pressures" rather than "limitations"

Para 16 - because...".of their perceived lack of independence. "?

Para20 - "influence" rather than "support or not"

Para 25 - After "suggestion is proposed" insert " Telecom seeks Austel's comments on this suggestion. Actual implementation of the suggestion would need to take into account comments received and any other organisational initiatives and imperatives that may impact on the suggestion.

Para 26 - Please note that, as stated at previous meetings, I have strong reservations re our response to this issue. There is a big difference between making the allegation of misleading and deceptive behaviour and proving an actual breach of S52 of the TPA. This response removes any hurdles by providing an admission on behalf of the company. If senior management of C&C truly believe that this illegal behaviour has occurred then it is incumbent upon those same managers to take immediate action against the staff involved.

My view is that Telecom's response to this issue should reflect the advice from Denise McBurnie, Freehill, Hollingdale & Page, Solicitors.

I will continue to work thru' the doc. and feed my comments to you asap.

Trevor Hill

**HOLLINGDALE  
& PAGE**

Melbourne Office

To: Don Pinal  
Copy to: Jim Holmes  
Greg Newbold

From: Denise McBurnie

At: Telecom Australia

Direct line: (03) 288 1382  
Switch: (03) 288 1234

To fax: 834 8444

From fax: (03) 288 1567

Date: 18 October 1983

Phone: 834 5736

Matter No: 1680521 Pin No: 274

Page 1 of

Approval:

The information in this facsimile is privileged and confidential, intended only for the use of the individual or entity named above. If you are not the intended recipient, any dissemination, copying or use of the information is strictly prohibited. If you have received this communication in error, please immediately telephone us (we will accept reverse charges) on:

(03) 288 1341 Fax (03) 288 1567 (International phone codes + [61 3]) or Telex A633004  
and return the original facsimile to  
Level 43, 101 Collins Street, Melbourne Vic 3000 Australia

**LEGAL PROFESSIONAL PRIVILEGED  
CONFIDENTIAL/COMMERCIAL IN CONFIDENCE**

Current status:

- \* Duesburys & FHP continuing process of evaluating ~~telecom's~~ claims - final report to Telecom will be privileged and will not be made available to ~~telecom~~.
- \* Telecom preparing report for FHP analysing data available on ~~telecom's~~ services (ie. CCAS, Leopard, CABS and file notes) - this report will be privileged and will not be made available to ~~telecom~~.
- \* ~~telecom~~ has requested Duesburys to return all documentation which he has provided to Duesburys. This request is being complied with.
- \* ~~telecom~~ sent a fax to Cheryl Prinz this morning (copy enclosed). ~~telecom~~ has been provided with information today. (see copy of covering letter enclosed).
- \* ~~telecom~~ told Peter Crofts at Duesburys that he will be taking the TV, press etc. to Telecom tomorrow. Given ~~telecom's~~ past conduct it is not clear whether he intends to carry out this threat.

CO23687/CO

A06796

438

19 October 1993

Page 2

Please contact Denise McBurnie if you have any further queries about this matter.

Yours sincerely

**FREEMAN, HOLLINGDALE & PAGE**

Per

*Denise McBurnie*

**Denise McBurnie**  
**Solicitor**

CO23887/CO

A06797 **43B**



Facsimile

To Ross Anderson

Network Products  
National Facsimile Support Centre  
23 rd Floor 242 Exhibition St.  
Melbourne. 3000

Company Telecom Portland

Australia

Facsimile 055 236 56

Telephone 03 634 6893  
Facsimile 03 640 0997

From Alan Barrow  
P.T.T.O.1

K01489

Subject COT Case

Date 29 October 1993

Ross,

The following pages are copies of my fax machines journal and the protocol printouts of failed calls.

On the date of 28-OCT-93 we were trying to create a line failure condition that would re-produce the same error on the transmitting machine and no record on the receiving Mitsubishi machine (055 267 230). The reason for this was to show that a sending fax machine could get to the point of transmitting a page to the Mitsubishi fax machine without the Mitsubishi machine having any record of the call.

The COT case call in question was the 27-10-93 at 10:46 on the journal (it is suspected that the clock in this machine is approx 1 hour and 15 minutes in error). The duration of the transmitting machine page of 2:21 minutes suggests that the call failed at the end of the page, possibly when requesting a reply from the receiving end. The presence of the ID in the journal of "055 267230" indicates the call was connected to the Mitsubishi fax machine in question. The receiving Machine has no matching entry in its journal for this call.

A call was placed to 055 267230 and connectivity terminated at the beginning of the page but this resulted in an error of NG in the journal along with the ID of the calling fax machine. The only way to reproduce the conditions experienced above was to interrupt the power on the receiving Mitsubishi fax machine. This would result in an entry in the transmitting machine and no entry whatsoever in the receiving Mitsubishi machine.

During testing the Mitsubishi fax machine, some alarming patterns of behaviour were noted, these affecting both transmission and reception. Even on calls that were not tampered with the fax machine displayed signs of locking up and behaving in a manner not in accordance with the relevant CCITT Group 3 fax rules. A half A4 page being transmitted from this machine resulted in a blank piece of paper 4cm long. the relevant protocol printout in sample #2 shows that the machine sent the correct protocol at the end of the page. Even if the page was sent upside down the time and date and company name should have still appeared on the top of the page, it wasn't. During a received call the machine failed to respond at the end of the page even though it had received the entire page (sample #3). The Mitsubishi fax machine remained in the locked up state for a further 2 minutes after the call had terminated, eventually advancing the page out of the machine.

Regards  
Alan Barrow

44

JAMP/2 H 4.

K03750

# PROTOCOL MONITOR

DATE/TIME  
LOCAL TERMINAL ID.  
LOCAL TERMINAL NAME  
COMPANY LOGO

28-10-93 12:37 PM  
8138400357  
03 6400997  
C

\*\*\* SEND \*\*\*

No	REMOTE STATION	START TIME	DURATION	#PAGES	MODE	RESULTS
1	055 267230	28-10-93 12:36 PM	0'47"	1		COMPLETED 9500

COM:0  
CFG:4

G3S:0  
RHP:0

G3R:0  
LGO:0

ECM:0  
THP:1

CSI:1  
W/S:74

CIG:0  
EVL:08

VERSION: KM1=X01.09 KM2=R01.09 KSP= 02.00 KCP=R04.03

LAPSE	LOCAL	REMOTE	FCF	FIF
2-76		← NSF	20	00000520004EB800082520202020202020202020202020202020
3-76				20006000180B
4-47		← CSI	40	3033323736322035353020202020202020202020202020202020
5-70	TS1	← DIS	80	004EB800
6-46	DCS	→	43	0048A800
6-83	TRN	→		
7-08	TRN	→		
7-08	TCF	→		
8-59	TCF	→		
9-87		← CFR	84	
10-26	TRN	→		
10-51	TRN	→		
11-52	PIX	→		
33-03	PIX	→		
34-31	EOP	→		
38-76	EOP	→		
43-21	EOP	→		
44-57		← MCF		
45-76	DCN	→		
			2F	} very slow response
			2F	
			8C	
			FB	

XEROX Telecopier 7017

44





SAMPLE #2

# PROTOCOL MONITOR

K03752

DATE/TIME  
LOCAL TERMINAL ID.  
LOCAL TERMINAL NAME  
COMPANY LOGO

28-10-83 12:09 PM  
8136400997  
03 6400997  
0

\*\*\* RECEIVE \*\*\*

No	REMOTE STATION	START TIME	DURATION	PAGES	MODE	RESULTS
1	055 287230	28-10-83 12:06 PM	1'02"	1		COMPLETED 9600

COM:0 G3S:0 G3R:0 ECM:0 CSI:1 CIG:0  
CFG:4 RHP:0 LGO:0 THP:1 W/B:74 EGL:08

VERSION: KM1=X01.09 KM2=R01.09 KSP= 02.00 KCP=R04.03

LAPSE	LOCAL	REMOTE	FCF	FIF
2'35	CE0			
6'47	NSF		20	00001917C0A0DEC1C061F9DBA4A081010A3739393030343620 3330
7'42	CSI		40	00CEE804
8'18	DIS		80	30332373632203535302020202020202020
10'48		← TSI	43	0006A800
11'19		← DCS	83	
11'47		← TRN		
11'59		← TRN		
11'59		← TCF		
12'08	*		EOM	0083
13'22		← TCF	84	
14'28	CFR	→		
15'59		← PIX		
33'03		← PIX	2F	
35'58		← EOP	3C	
37'21	MCF	→	FB	
39'19		← DCN		

*Mitsubishi to my Xerox  
Received a piece of paper  
4cm long (blank)  
XEROX Telecopier 7017*

*Although the page was  
error-free, it did not  
terminate correctly, &  
did not have any informatio  
on it.*

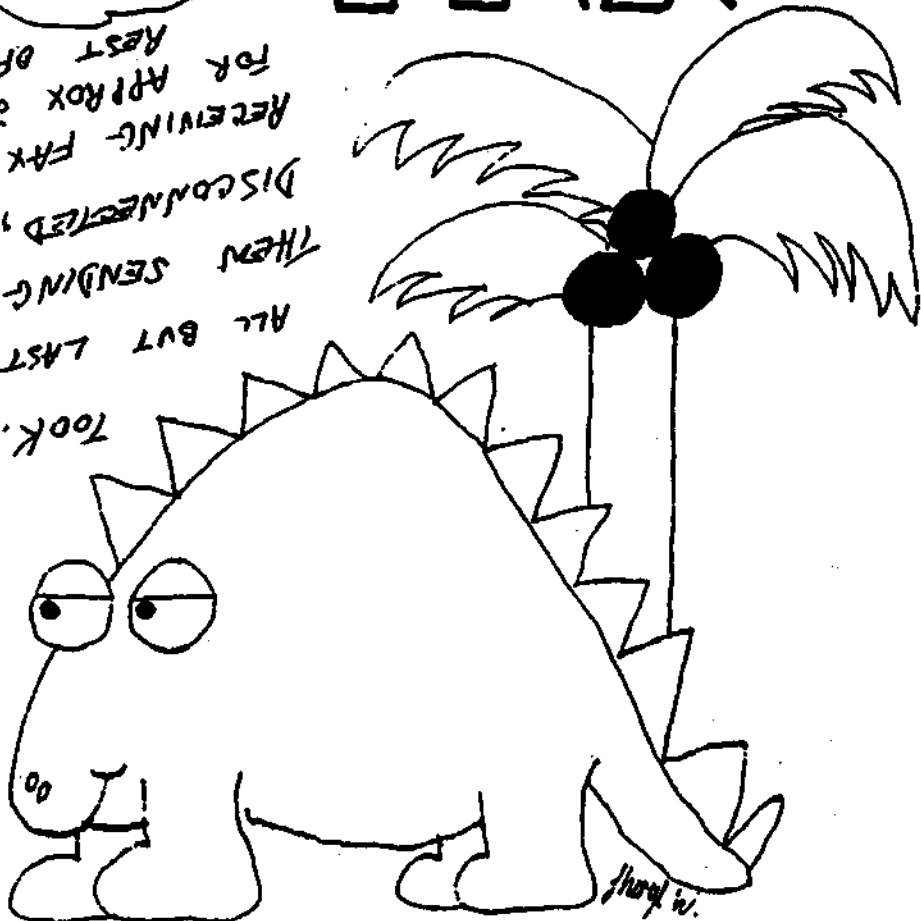
*Page received*  
↓

# TEST FAX



(STORED IN FAX STREAM) 7

THIS FAX TOOK 3.11min. TO RECEIVE  
1.2" RECEIVED  
ALL BUT LAST PARTY FAX  
THEN SENDING MACHINE SILENT  
DISCONNECTED, MACHINE SILENT  
RECEIVING FAX. APPROX 2min, THEN SILENT  
FOR REST OF MESSAGE RECEIVE



STOP APPROX HERE.

055 267230: # 1

03 8400997-

128-10-83 : 12:31PM :

No  
oil

7

SENT BY: 0

**Beaman, Nigel**

From: Zoogers, Peter  
To: Beaman, Nigel  
Cc: Channing, Barry; Peck, Chris; Selchow, Dave; Farrell, Bernadette  
Subject: RE: 1800 PROBLEMS  
Date: Monday, 1 November 1993 10:53AM  
Priority: High

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

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

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

Peter,

For your information as requested.

Regards Nigel

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

Maria

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

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

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

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

Christopher

Page 135

H36293

45A

NR 07 '95 04:20PM

07:00 '95 06:15PM N. & I. B. MELBOURNE 613 6544601

*M. J. Kelly*

**Telecom**  
AUSTRALIA

Internal Memo

To: Harvey Parker  
Group Managing Director - Commercial  
and Consumer

Commercial & Consumer  
Office of Customer Affairs  
17/242 Exhibition Street  
Melbourne  
Victoria, 3000  
Australia

From: Greg Newbold  
Group Communications Manager

Telephone (03) 834 1501  
Facsimile (03) 833 3041

Subject: Serious 1800 problem

Date: 5 November 1993

*URGENT*  
*Greg Newbold / Chris Kelly*  
*Please review, take action*  
*in order to ensure the*  
*report back to me on*  
*your action.*

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

Harvey,

Your 1800 Staff Contact line has generated a call from Bruce Patric (008 819 166) from Commercial Special Services (testing area) at Glen Waverley who advised that the 1800 service has defects which in some cases are preventing the connection of customer calls. Customers instead get a recorded voice announcement saying that the service is unavailable. Also there is Post-Dialling Delay of up to 20 seconds which means that a customer will think their call hasn't gone through and will hang up.

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

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

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

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

*Greg Newbold*  
Greg Newbold

*Will address to add to incident (3rd ref)*  
*Also see above work completed*  
*Thursday*  
*Philp Leland was contacted*  
*late.*  
H36178

45B



AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

92/596 (8)

10 November 1993

Mr Ian Campbell  
 Managing Director - Commercial Business  
 Telecom

Fax 634 3876

Dear Mr Campbell

**COT CASES SETTLEMENT PROPOSAL**

As discussed with you this morning, I confirm that I am prepared to recommend to the four *COT Cases* named in the *Fast Track Settlement Proposal* that they accept the proposal.

I also confirm that insofar as it is able, AUSTEL will ensure that the settlements reached as a result of this process will be binding on all the parties.

Having regard to the matters put in your letter of 9 November 1993 concerning -

- the time it will take Telecom to establish administrative arrangements and assign staff to handle claims from other customers under its new dispute resolution process being developed in consultation with AUSTEL
- the inclusion of additional customers in the *Fast Track Settlement Proposal* defeating the intention to achieve a speedy outcome and obtain experience to assist in establishing a new process.

AUSTEL agrees that the *Fast Track Settlement Proposal* will be confined to the four *COT Cases* named in the proposal. That agreement is on the basis that other persons that are known to AUSTEL and Telecom to have claims in the pipeline will be first cabs off the rank under the *Proposed Arbitration Procedure* once it is settled, provided that, if appropriate, Telecom is prepared to waive the upper limit under the *Proposed Arbitration Procedure*.

I have asked Cliff Mathieson, AUSTEL's Special Advisor Networks, to liaise directly with you for the purpose of establishing for the four *COT Cases* named in the *Fast Track Settlement Proposal* a defined status for their telephone service for the purpose of obtaining agreement on the operational performance of their telephone service when a financial settlement is established.

Yours sincerely

Robin C Davey  
 Chairman

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

A09676

45c

Internal Memo

FAVLED  
10/11/93

**Telecom**  
AUSTRALIA

To Mr J.R. Holmes, Secretary  
Mr D. Pinel, Manager - Service Assurance, C&C

Commercial & Consumer

From Ian Campbell

Level 5  
242 Exhibition Street,  
MELBOURNE VIC 3000  
Australia

Subject CoT CASES  
FAST TRACK SETTLEMENT PROPOSAL

Telephone (03) 634 6671  
Facsimile (03) 634 3876

Date 10 November 1993

File

Jim,  
Don,

I agreed the following Mr Davey today:

1. **PROPOSAL**

*Para 2(a)(ii) to read*

"claims since the earlier settlements to a date of the assessor's findings"

*Para 2(a)*

After the first paragraph, the explanation as to why Schorer is different.

Then the second paragraph.

*Para 2(g)*

Last paragraph

... amount of a sum apportioned ...

*Para 2(l)*

that the amounts ...

2. **AUSTEL's ASSURANCES**

The three assurances requested have been agreed, and will be provided in a letter to us.

Regarding the "defined status" of the telephone services for the CoT 4, Cliff Mathieson has been delegated by AUSTEL to agree the specification, testing process and agreement process.

D01289

45D

✶ I have spoken with Mr Davey about the need for an interim arrangement for this for use beyond the CoT 4 until a final arrangement is available. It would be useful if the CoT 4 arrangement developed with Mr Mathieson could be agreed by AUSTEL to be used as such an interim arrangement.

*B. Lang*  
for Ian Campbell  
COMMERCIAL & CONSUMER BUSINESS

D01290

45D

~~revisions~~  
 An update to previous  
 correspondence. J. Hindson  
 6/12/93

## Internal Memo

**Telecom**  
 AUSTRALIA

To ~~Trevor Hindson~~ <sup>3 - 250 1386</sup>  
 Special Case Investigation Coordinator

From Rod Hurman  
 Manager, Charging and Billing Projects

Subject Short Duration Calls, Mr A. Smith.

Date 25 November 1993

Corporate Centre  
 Charging and Billing Directorate -  
 Brisbane

6/131 Barry Parade  
 Fortitude Valley, 4006

Australia

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

K00751

File

Attention

Ms Ann Law

Trevor,

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

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

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

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

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

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

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

46A



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

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

1. Calls to Traralgon, being charged on busy.

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

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

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

3. Calls to RVA.

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

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

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

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

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

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

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

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

46A

I, TINA VELTHUYZEN

of 15/23 GOVERNOR RD  
MORDIALLOC

In the State of Victoria  
do solemnly and

sincerely declare

THAT on the 13<sup>th</sup> of January I  
called Cape Bridge water Holiday  
Camp on 008816522 seven times  
one after the other but the number  
was engaged. Have seen when I  
called the eighth time I got a recording  
telling me the number was not connected  
I did call again & got through when I  
told the owner of the camp this he asked me  
to ring John McMahon at Anstel who was  
not available I did however speak to Mr  
Matthews who asked me to tell him exactly  
what happened I did this. Mr Matthews  
then rang back - asked me to report the fault  
to Telcom, business/faults which I proceeded  
to do.

T. Velthuyzen

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

DECLARED at Mordialloc in the  
State of Victoria this 20<sup>th</sup>  
day of January One thousand  
nine hundred 94

T. Velthuyzen

Before me

R. OWEN

46A

FREEHILL  
HOLLINGDALE  
& PAGE

11 November 1993

Mr Don Pinel  
Telecom Australia  
Level 10  
242 Exhibition Street  
MELBOURNE VIC 3000

By facsimile

Dear Don

**Draft Austel Submission  
Legal Professional Privileged  
Confidential/Commercial in Confidence**

We refer to the penultimate draft of the Austel submission which was provided to us on 10 November 1993 for our final comments.

To facilitate incorporation of our suggested amendments into the final draft we have already provided to Grahame Powels a copy of the draft submission upon which we have made a few hand written amendments. Given the urgency of this matter, these amendments have been handwritten and highlighted for ease and speed of incorporation into the final document.

We have also been requested to provide a "sign off" on the Submission from a legal perspective. In this regard, we make the following comments:

1. We understand that in preparing the Submission, Telecom has decided to take the approach of conceding certain deficiencies in its processes and procedures for handling what is referred to in the Submission as "difficult" faults and for its handling of certain customer dispute situations.

We understand that this approach has been taken by Telecom on the basis that it is anticipated that Austel's report on its investigation will contain criticisms of Telecom's processes and procedures in these areas and Telecom wishes to anticipate Austel's criticisms with suggestions as to how Telecom's approach to such areas may be improved.

In light of this approach, we emphasise that, while we have endeavoured to minimise any "dangerous" admissions of liability which may have appeared in the draft

BARRISTERS & SOLICITORS  
181 COLLINS STREET  
MELBOURNE 3000 AUSTRALIA  
GPO BOX 1284 MELBOURNE 3001  
TELEPHONE (03) 248 1234 FACSIMILE (03) 288 1567  
TELEX AA33004 DX 240 MELBOURNE

SYDNEY MELBOURNE PERTH CANBERRA BRISBANE LONDON SINGAPORE  
AS REPRESENTED IN BANGKOK AND JAKARTA

47

A10476

FREEHILL  
HOLLINGDALE  
& PAGE

Telecom Australia  
 11 November 1993

Page 2

Submission, the general approach adopted by Telecom in preparing the submission does expose Telecom to the possibility that admissions or concessions which do consistently appear in the Submission may be used against Telecom to prove that Telecom, in the provision of telecommunication service and dealing with "difficult faults", has breached certain warranties implied into consumer contracts under the Trade Practices Act 1974 during applicable time frames.

The particular warranties in issue are first, a warranty to supply services, such as telecommunications services with due care and skill and secondly, that the services would be reasonably fit for the purpose for which Telecom's customers have expressed to Telecom that such services are required.

Of course, for such a claim of breach of warranty to be made out, the total evidence must show that Telecom has failed to meet these non-excludable warranties. The purpose of our caveat here is to raise the possibility that the concessionary approach taken in preparing and submitting the Submission may be used as an element of such evidence against Telecom's interest.

2. Telecom has decided to present the Submission to Austel as a non-confidential document. Further, Telecom intends to provide a presentation to Austel of the Submission followed by similar presentations to be given to the stake holders and the Telecom customers involved in the Austel investigation. Consequently, to the extent that the submission contains any admissions of fault or admissions against interest, Telecom may, by virtue of the contents of the Submission, expose itself to the risk of any actions (whether legal or political) that may be taken in respect of such admissions. We have endeavoured to review the Submission from the perspective that the Submission would, regardless of the manner in which it was presented to Austel, find its way to either the customers or some other public forum.

Please do not hesitate to contact Denise McBurnie if you have any queries regarding the amendments which we have made to the latest draft Submission or if you wish to further discuss any elements of the Submission.

Yours sincerely

FREEHILL HOLLINGDALE & PAGE

per:

*Denise McBurnie*

Denise McBurnie  
 Solicitor

c.c. Mr Ian Campbell,  
 Mr Jim Holmes

47

December 22, 1993

**STRICTLY CONFIDENTIAL**

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

**By Facsimile: (03) 328 4462**

Dear *Graham,*

I advise that the appointment of an assessor is imminent and your views by lunch time Thursday would be welcome.

A search to find an acceptable person with the necessary skills to meet the criteria and to satisfy all parties has of course not been easy - I thank all for the very positive and constructive approach taken in assisting me with your views.

The position under term 2(b) of the 'Fast Track Agreement' is for the decision to be in consultation with the parties. I therefore have decided to indicate to you that the field is narrowed to two nominees and it is my view that this fact should be shared with you.

**1. Hon. Andrew Rogers**

Former Chief Judge of the NSW Commercial Division of the Supreme Court.

Currently running the National Disputes Centre and having just completed the Home Fund Commission of Inquiry for the NSW Government. He is an Honorary Fellow of the Institute of Arbitrators Australia. He is able to commence in February.

**2. Peter Llewellyn Bartlett - legal practitioner.**

Mr. Bartlett is a senior partner of the national legal firm, Minter Ellison Morris & Fletcher. This firm has offices in Melbourne, Sydney, Brisbane and internationally.

He is:

- Chairman, Media & Communications Committee, Business Law Section, Law Council of Australia [for over 3 years]

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

**47B**



**Telecommunications  
Industry  
Ombudsman**

**Warwick L Smith LLB  
Ombudsman**

- Chairman, Communications & Media Section, LAWASIA
- Chairman, Litigation Section, Law Institute of Victoria
- Advice to the Chief Justice of Victoria on the Spring Offensive (Mediation in the Supreme Court)
- Supreme Court Rules Committee.
- Member, Litigation Specialisation Advisory Committee

He has extensive experience in commercial litigation and has an understanding of the public policy issues involved in telecommunications. His firm has no association with Telecom or any of the claimants.

Both are independent and have no direct link to Telecom or complainants.

It is my view that Mr. Rogers provides the deeper experience and is my preference and that if Mr. Bartlett was willing could act as legal counsel to the T.I.O. This is my recommendation to you. However if you hold separate views it would of course be helpful to me to know.

The resource unit appointment of Mr. Jim McKerlie has been met in the main with support.

If we are able to leave for Christmas with our structure and personnel decisions made, I would be hopeful of meeting the calendar target of an April finish. The preparation of claimant statements of claims should now be in preparation for delivery in late January to the resource unit so we are able to action the necessary documentation to flow to the appointed assessor and under the terms of the agreement for Telecom to prepare responses.

Yours sincerely,



Warwick L. Smith  
Ombudsman

FAX FROM:	ALAN SMITH C. O. T.	DATE:	18.9.94
FAX NO:	055 267 230		
PHONE NO:	008 816 522	NUMBER OF PAGES (including this page)	
FAX TO:	WARRICK L SMITH TELECOMMUNICATION INDUSTRY OMBUDSMAN		

RECEIVED  
18 09 1994

Dear Mr Smith,

Last week I contact the office of the Hon. Michael Lee, Minister for Communications, in Canberra. I spoke with a senior spokesperson from that office. This contact was regarding my concerns about further evidence of equipment being connected to my phone lines without my knowledge in 1993.

On returning my call, the Hon. Michael Lee's office instructed me to contact the Federal Police, which I have.

The evidence I have on this equipment being connected without my knowledge was within Telecom diary notes. This evidence clearly indicates a deliberate attempt to sabotage my business via its phone service. If this is not the case, then Telecom have lied to the Federal Police during the enquiries into phone and voice monitoring and taping. If, as this evidence seems to indicate, the M.C.T. equipment was for voice listening purposes then again, this was withheld from the Federal Police in their investigations. If this M.C.T. equipment was not for voice listening or monitoring purposes then it was an act of sabotage.

Mr. Smith, I have further evidence of Telecom's own documentation stating that M.C.T. equipment was causing malfunctioning of my phone lines. This evidence, contained in a Telecom document, was tabled on August 10th, 1993, and yet this second M.C.T. equipment was still on my outward conversation and fax lines as late as October, 1993. This disgusting behaviour by Telecom has meant that my phones were less efficient than those of my competitor.

If this equipment was for voice monitoring of faults only, then where are the fault reports? The F.O.I. request for these fault reports was submitted to Telecom in December, 1993. This request clearly stated ALL exchange testing fault data was required.

I request two things of your office: one is to ask Telecom under which charter was this equipment connected to my 267 230 line, the second is for you to intervene on my behalf, and direct Telecom to produce this fault data under the F.O.I. Act.

Mr. Smith, you asked me in good faith, three months ago, to withdraw the C.O.T. documentary in the name of a fair deal, in the name of the Arbitration Procedure. I did just that. The preparation of this documentary has already cost me \$2,600, yet I met this cost in the same spirit in which you asked C.O.T. to allow this Fast Track Arbitration Procedure to proceed to a head. You stated it was for the good of all, that Telecom was doing all the right things. Mr. Smith, I am yet to see this in action. Telecom is still their old, historic self, with denials and withholding of F.O.I. information.

Mr. Smith, I again ask you to convey my disgust at the way Telecom have conducted this Arbitration Procedure. They are without foundation in the way they have responded to my requests under this F.O.I. act. They have withheld vital evidence which I could have used to further my claim of an inadequate phone service. This is another act of sabotaging my Australian right to fair representation. Telecom have hindered my submission, my claim and, likewise, the very spirit of this Arbitration procedure.

47c

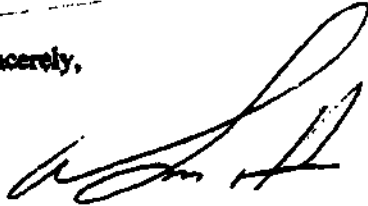


I have written this letter for the record, and to show my concerns with what has taken place these past nine months.

I again ask you to enquire of Telecom: for what reason did they connect this M.C.T. equipment to my lines and for what period of time?

I await your response.

Sincerely,



Alan Smith

cc.

Mr. John Wynack, Investigating Officer, Commonwealth Ombudsman's Office, Canberra

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

Mr. Paul Rumble, Customer Resource Unit, Telecom.

47c .