PRIVATE &

CONFIDENTIAL

MEMORANDUM DRAFT

TO : T10

FROM : RESOURCE UNIT

DATE : 30 March 1995

SUBJECT : Telecom - Points of Interest

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

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

Documents Provided

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

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

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

Progress of Fast Track Arbitration Process

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

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

EXTRACTS OF TELECOM'S DEFENCE

Principle Submission

(A) Opening submission

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

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