

The Hon. Michael D. Kirby AC CMG

9 July 2009.

Mr. Alan Smith,
Seal Cove Guest House,
1703 Bridgewater Road,
PORTLAND VIC. 3305

Dear Mr Smith,

On 2 July 2009, you wrote to me raising a complaint concerning the conduct of an arbitrator who is a member of the Institute of Arbitrators & Mediators Australia. You wrote to me in my capacity as President of the Institute.

In accordance with established procedure, I have referred the complaint to the Ethics and Professional Affairs Committee of the Institute.

In due course, you will be informed following this reference.

Please direct future correspondence to the Chief Executive Officer of the Institute, Mr. Paul Crowley, PO Box 1364, Law Courts, Melbourne, Vic. 8010.

Yours sincerely,

M Kirby

Cc Mr. Paul Crowley

55-A

Level 7, 195 Macquarie Street
Sydney NSW 2000 Australia
Website: www.michaelkirby.com.au

Telephone: +61 2 9231 5800
Facsimile: +61 2 9231 5811
E-mail: mail@michaelkirby.com.au

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

20th July 2009

Mr Paul Crowley
Chief Executive Officer
C/o the Ethics and Professional Affairs Committee
Institute of Arbitrators and Mediators Australia
PO Box 13064, Law Courts
Melbourne 8010

Dear Sir,

My letter to you on 16th July advised that the following documents would be hand-delivered to you. These reports are now attached for your information:

1. Service Verification Tests (SVT) – Telstra’s Misleading and Deceptive Conduct – Part 1, pages 1 to 38 (August 2008);
2. Bell Canada International (BCI) – Telstra’s Misleading and Deceptive Conduct – Part 2, pages 39 to 50 (September 2008);
3. 008/1800 & Fax Billing Issues – Telstra’s Misleading and Deceptive Conduct – Part 3, pages 1 to 23 (3rd October 2008);
4. Statement of Facts and Contentions as submitted to the Administrative Appeals Tribunal (26th July 2008);
5. Nine bound spiral bound volumes of exhibits 339 in total have been provided in support of my AAT submission, numbered as 1 to 47; 48 to 91; 92 to 127; 128 to 180; 181 to 233; 234 to 281; 282 to 318; 319a to 323; and 324 to 339;
6. A document titled Questions to the (IAMA) and accompanying 58 **Exhibits**;
7. A draft manuscript titled the “COT CASE” *One of the stories from the “Casualties of Telstra’ saga”*. This document has been provided to give a human interest side of the saga.
8. Draft & Final Arbitrators Award,
9. Lane Technical report dated 6th April 1995;
10. Draft DMR & Lane Report dated 30th April 1995;
11. Formal DMR & Lane Report dated 30th April 1995;
12. Letter of Claim submitted to arbitration 15th June 1994;
13. The Arbitration Agreement faxed on 19th April 1994, from Dr Hughes’ office to Mr Alan Goldberg AO (Now a Federal Court Judge), please note page 12 of this agreement shows clauses 24, 25 and 26 was firmly in place when this document was received.
14. The Arbitration Agreement I signed on 21st April 1994, showing clause 24 exonerated Peter Bartlett and the Resource Unit – both clause 25 and 26 regarding the liability clause have been deleted (i.e. do not match the agreement faxed to Mr Goldberg).
15. Report to the Senate Environment, Recreation, Communications and the Arts Legislation Committee (Ministers Office) from John Pinnock (TIO) dated 26th September 1997, noting on page 4: “*Firstly, the Arbitrator had no control over the process because it was conducted outside the ambit of the Arbitration Procedures*”. Senate Hansard (attached) noting the same.

55B

16. Report titled Dr Gordon Hughes – Interception of Telephone Conversations not addressed during Alan Smith's Arbitration, Prepared for the IAMA July 2009;
17. Report titled Dr Gordon Hughes, Arbitration, Prepared for the IAMA July 2009
18. Report titled Dr Gordon Hughes, Arbitration Billing Issues Not Addressed, Prepared for the IAMA July 2009;
19. Report titled Dr Gordon Hughes, Arbitration Service Verification Tests (SVT) Prepared for the IAMA July 2009;
20. Report titled Dr Gordon Hughes, Conspiracy to Pervert the Course of Justice, Prepared for the IAMA July 2009;
21. Report titled Dr Gordon Hughes' Resource Unit, Conspiracy to Pervert the Course of Justice, Prepared for the IAMA July 2009

The exhibits on the enclosed CD (point 5, above) should be read in conjunction with the AAT Statement of Facts and Contentions (point 4, above) – the appropriate exhibits are referred to in the AAT submission, with each number preceded by my initials, i.e. AS1, AS2 etc.

The documents at points 1 to 4, and the exhibits on the CD (point 5, above) were all provided to the Administrative Appeals Tribunal (AAT) between August and October 2008, in support of my AAT Statement of Facts and Contentions.

Although the document at point 6 (above) was not provided to the AAT, it will be useful to the Ethics and Professional Affairs Committee during their investigation into my matters because it includes a detailed explanation of the way our arbitration agreement was secretly altered.

The Ethics and Professional Affairs Committee should also know that, during my arbitration, I raised the problems with the arbitration SVT tests, and the ongoing billing problems associated with my 008/1800 phone service, with Dr Hughes, but not only did he fail to investigate my complaints, he also made no mention of them in my arbitration award. The award did mention that both AUSTEL and the COT claimants complained, in general, about the BCI testing process but did not note that BCI could not possibly have carried out the 13,000 test calls they record in their report on the Cape Bridgewater RCM Exchange. Dr Hughes did not instruct the arbitration technical resource unit to investigate any of the three issues covered by the enclosed reports, even though all three were registered in my claim documents.

I was telephoned late this afternoon by a representative (Alan) of the IAMA Ethics and Professional Affairs Committee of the Institute asking whether I had provided all the relevant information concerning my complaint against Dr Gordon Hughes.

I have attached here and in my previous correspondence to the Ethics and Professional Affairs Committee, all the information I consider relevant to my claims. However, I trust that if the IAMA require any further information that they might see is important to their investigations they will in fairness under the circumstances see a need to request any further documentation that they require.

I have also attached copies of Dr Hughes draft Award and final Award along with the 6th April 1995, draft Lane technical report and the Dr Hughes' copy of the DMR & Lane draft 30th April report as well as the final DMR & Lane 30th April 1995 formal technical report. My Letter of claim submitted 15th June 1994 to Dr Hughes, has also been attached as background information.

5573

Please note: because some of the reports such as the Ferrier Hodgson Corporate Advisory financial draft and final report along with Telstra's interrogatories are voluminous they have not been attached. If any documentation along these lines is needed for assessment purposes please request for the information to be forwarded.

Sincerely,



Alan Smith

5573

From: Richard Atherton
To: capesealcove
Sent: Tuesday, October 20, 2009 9:49 AM
Subject: RE: Registered Documents

Dear Mr Smith,

I can confirm that all the documentation has been received into the IAMA office and passed to Mr Crowley.

Regards,

Richard

From: capesealcove [<mailto:capesealcove>] [<mailto:capesealcove>] [<mailto:capesealcove>] [<mailto:capesealcove>] [<mailto:capesealcove>]
Sent: Monday, 19 October 2009 3:47 PM
To: Richard Atherton
Subject: Registered Documents

Attention Mr Paul Crowley
Chief Executive Officer
Institute of Arbitrators
Melbourne

Dear Mr Crowley

Please find attached confirmation that I registered a parcel on 5 October 2009 which was not received by your office and/or the Law Courts Post Shop until 13 October 2009. I am concerned that perhaps your office might not have received the documentation I sent and would appreciate confirmation what your office actually received. Your office should have received the following three documents:

1. An 8 page letter to you titled: *Final Submission to Mr Paul Crowley dated 29th September 2009*;
2. A bound submission dated 28th September 2009 with accompanying **Exhibits**
3. A bound submission dated 29th September 2009 with accompanying **Attachments**

I appologise for any inconvenience this extra work will cause your office staff but I am sure you will understand my concerns.

An email concerning this matter will allievate my concerns.

Thank you
Alan Smith

55c

Alan Smith

From: "Richard Atherton" <Trust@iama.org.au>
To: "Alan Smith" <capecove12@bigpond.com>
Sent: Wednesday, 21 October 2009 9:16 AM
Subject: RE: Registered Documents

Thank you Mr Smith.

Regards,

Richard

From: Alan Smith [mailto:capecove12@bigpond.com]
Sent: Wednesday, 21 October 2009 9:13 AM
To: Richard Atherton
Subject: Re: Registered Documents

Dear Mr Atherton

I confirm that my two submissions dated 28 and 29 September 2009, and the accompanying 8 page letter to Mr Paul Crowley on 29th September 2009 is my final submission to the IAMA Ethics and Professional Affairs Committee. My letter of 5th October 2009 to Mr Paul Crowley was sent only to clarify that while I suspected facsimiles were intercepted by a third party during my arbitration, I only have documented evidence showing documents were being intercepted i.e. after leaving my business and residence for the dates between 1998 and 2001. I apologise if my 5 October letter confused the IAMA.

I again thank the IAMA for investigating my matters.

Sincerely
Alan Smith

----- Original Message -----

From: Richard Atherton
To: Alan Smith
Sent: Tuesday, October 20, 2009 5:55 PM
Subject: RE: Registered Documents

Dear Mr Smith,

Further to our correspondence below; please can you confirm that these documents are final submissions in regard to your complaint.

Regards,

Richard

From: Alan Smith [mailto:capecove12@bigpond.com]
Sent: Tuesday, 20 October 2009 10:44 AM
To: Richard Atherton
Subject: Re: Registered Documents

Dear Mr Atherton

Thank you for your prompt response

Kind regards
Alan Smith

| ----- Original Message -----

55C

Alan Smith

From: "Alan Smith" <capecove12@bigpond.com>
To: "Richard Atherton" <Trust@iama.org.au>
Sent: Wednesday, 21 October 2009 9:12 AM
Subject: Re: Registered Documents
Dear Mr Atherton

I confirm that my two submissions dated 28 and 29 September 2009, and the accompanying 8 page letter to Mr Paul Crowley on 29th September 2009 is my final submission to the IAMA Ethics and Professional Affairs Committee. My letter of 5th October 2009 to Mr Paul Crowley was sent only to clarify that while I suspected facsimiles were intercepted by a third party during my arbitration, I only have documented evidence showing documents were being intercepted i.e. after leaving my business and residence for the dates between 1998 and 2001. I appologise if my 5 October letter confused the IAMA.

I again thank the IAMA for investigating my matters.

Sincerely
Alan Smith

----- Original Message -----

From: Richard Atherton
To: Alan Smith
Sent: Tuesday, October 20, 2009 5:55 PM
Subject: RE: Registered Documents

Dear Mr Smith,

Further to our correspondence below; please can you confirm that these documents are final submissions in regard to your complaint.

Regards,

Richard

From: Alan Smith [mailto:capecove12@bigpond.com]
Sent: Tuesday, 20 October 2009 10:44 AM
To: Richard Atherton
Subject: Re: Registered Documents

Dear Mr Atherton

Thank you for your prompt response

Kind regards
Alan Smith

----- Original Message -----

From: Richard Atherton
To: capesealcove
Sent: Tuesday, October 20, 2009 9:49 AM
Subject: RE: Registered Documents

Dear Mr Smith,

I can confirm that all the documentation has been received into the IAMA office and passed to Mr Crowley.

Regards,

55c

Alan Smith

From: "Richard Atherton" <Trust@iama.org.au>
To: "Alan Smith" <capecove12@bigpond.com>
Sent: Wednesday, 21 October 2009 12:50 PM
Subject: RE: Alan Smith - Document issue

Dear Mr Smith,

Presently, IAMA does not require this further documentation to be sent. However, the investigating persons will be notified of these documents and may request them at a later date.

Regards,

Richard

From: Alan Smith [mailto:capecove12@bigpond.com]
Sent: Wednesday, 21 October 2009 12:16 PM
To: Richard Atherton
Subject: Alan Smith - Document issue

Dear Mr Atherton,

Since I confirmed that my submission to the IAMA is now complete I have been advised that I should also have clearly explained that I have a large file of documents that confirm that, between 1998 and 2001, at least fifty-two Telstra/arbitration related faxed documents were intercepted by a third party after the faxes had been sent from either my residence or my business premises. Since these faxes were not sent during my actual arbitration, this material has not been included in my submission to the IAMA.

If you refer back to *pages 137 and 138* in my Administration Appeals Tribunal (AAT) Statement of Facts and Contentions, a copy of which was provided to the IAMA on 20th July 2009, you will see that, two professional technical consultants have stated that, in their opinion, (the faxed material provided to them) confirmed they were intercepted and then redirected to their intended destination.

If Mr Paul Crowley believes this file would be of assistance during the IAMA investigation, (the intercepted faxes are all related to my Telstra/arbitration matters, please let me know and I will arrange to send it to the IAMA. I must confirm again though, that the evidence in this file only confirms the interception of faxes that were sent after the end of my arbitration.

As I stated earlier today, my IAMA claim is now complete.

Sincerely,
Alan Smith

55c

21/10/2009

Alan Smith

From: "Richard Atherton" <Trust@iama.org.au>
To: "capesealcove" <capecove12@bigpond.com>
Sent: Friday, 27 November 2009 2:00 PM
Subject: RE: Mr Paul Crowley 23 November 2009 - Letter
Dear Mr Smith,

Your email has been forwarded to Mr Crowley.

Regards,

Richard

From: capesealcove [mailto:capecove12@bigpond.com]
Sent: Friday, 27 November 2009 6:50 AM
To: Richard Atherton
Subject: Mr Paul Crowley 23 November 2009 - Letter

Dear Mr Atherton

On Wednesday 25 November 2009, I mailed the attached letter dated 23 November 2009 (and 4 attachments) from Mt Gambier in South Australia to Mr Paul Crowley, via overnight mail. I now realise that I failed to make it clear at the end of the letter that, if it would be helpful to the IAMA Ethics and Professional Affairs Committee as they assess my current claims, I could provide the original facsimile transmission (and attachments) that Mr Michael Shand QC sent to Dr Hughes at Lander & Rogers on 15 June 1990, regarding the letter Mr Shand suggested that Graham Schorer send to Telstra's Mr Ward. I can also supply the original letter dated 19 September 1990 to Graham Schorer from Dr Hughes at Lander & Rogers.

I would be grateful if you would please pass this message on to Mr Crowley.

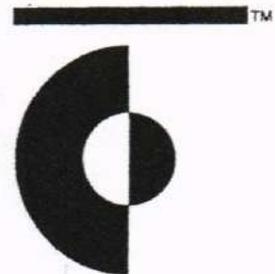
Kind regards
Alan Smith

55c

27/11/2009

28 January 2003

COPY



Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

Total Pages: 19

Dear

LEVEL 3 COMPLAINT

TIO reference: 02/101638-1 - Mc Kenzie

The Telecommunications Industry Ombudsman (TIO) has received a complaint against Telstra Corporation from Mr & Mrs Darren & Jenny Lewis regarding telephone number 0355267267.

The TIO has raised this complaint at level 3 because of the complexity of the complaint and likelihood that extensive testing may be required. Mr & Mrs Lewis have advised the TIO that they have an ongoing complaint with Telstra Corporation in relation to their telephone service and have as yet been unable to resolve this matter. The TIO has invested time assessing Mr & Mrs Lewis' correspondence and believes that further investigation is warranted.

Mr & Mrs Lewis claim in their correspondence attached:

- That they purchased the Cape Bridgewater Coastal Camp in December 2001, but since that time have experienced a number of issues in relation to their telephone service, many of which remain unresolved.
- That a Telstra technician "Mr Tony Watson" is currently assigned to his case, but appears unwilling to discuss the issues with Mr Lewis due to his contact with the previous Camp Owner, Mr Alan Smith.
- That on 27 September 2002 "Ian" advised him that an EMG was causing the faults at the local exchange and that a technician would be sent out to fix this.
- That on 28 September 2002 "Renea" advised him that that the local exchange could only handle a certain amount of traffic, that there was nothing that Telstra Corporation could do about the problem and that this problem was not new to Cape Bridgewater.
- That Telstra Corporation advised him on 26 November 2002 that the phone extension wiring was laid too shallow and was not installed correctly, thus it believed that Telstra Corporation had not installed that wiring. Mr Lewis also claims that it was suggested that the line had been tampered with.
- That Mr Alan Smith had provided him with documents confirming that Telstra Corporation did all the cabling and wiring in question.
- That the phone problems have decreased dramatically since Telstra Corporation rewired the business on 9 December 2002 and disconnected the phone alarm bell, however he is still

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

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Website www.tio.com.au
Email tio@tio.com.au
National Headquarters
Level 15/114 William Street Melbourne Victoria 3000

Telecommunications Industry Ombudsman Ltd ABN 46 057 634 787

PO Box 276
Collins Street West
Melbourne
Victoria 8007

Telephone (03) 8600 8700
Facsimile (03) 8600 8797
Tel Freecall 1800 062 058
Fax Freecall 1800 630 614

experiencing intermittent problems with receiving calls, and continued to have problems with his fax line.

- That Telstra Corporation have checked his fax machine and confirmed that it is working correctly.
- That he believes that as the same problem has been experienced when attempting to send or receive faxes from a number of locations, it is unlikely that the fault is with the other party's fax machine.
- That the problems experienced resulted in the frustration of his clients being unable to contact him to make bookings for his camp and are affecting the profitability of his business.

Mr Lewis has outlined a number of these problems on page 3 of his correspondence attached. In particular, Mr Lewis has identified the following concerns:

- That he has been contacted by a number of people advising that the telephone had not been answered when ringing previously, despite Mr Lewis' assertion that someone was there at the time.
- That many faxes sent to his potential clients have not been received at the intended destinations, despite his fax transmission records confirming that the fax had been successfully sent. Furthermore, Mr Lewis claims that he has been charged for each of these calls.
- That he has experienced problems receiving faxes from his clients.
- That when he uses *10# to retrieve missed phone calls, he is sometimes given numbers from days before which had not registered earlier.
- That people had reported that when attempting to call Mr Lewis' business they first hear a message that the telephone has been disconnected, but when trying again are connected through on the same number.
- That when picking up the receiver to make a call, he had intermittently heard another person's conversation quite clearly.
- That on 25 October 2002 a caller reported that when trying to contact Mr Lewis earlier, he heard only clicking noises on the telephone line, but the call did not connect.
- That a caller reported that they had called and heard an engaged signal, despite Mr Lewis having call waiting activated on the service to prevent missed calls.
- That another caller reported that every time he called he received a fax connection tone.
- That on 13 November 2002 he picked up the receiver and heard a deep breathing sound but no dial tone.

The TIO asks Telstra Corporation to present its perspective on the complaint.

If Telstra Corporation decides that the complainant's claims have merit after reviewing the complaint, how does Telstra Corporation propose resolving the complaint?

If Telstra Corporation is of the view that there is no merit to some or all aspects of this complaint, please provide reasons for its view, identifying any facts in dispute. In addition, please supply all documentation relevant to the complaint. In particular, please provide:

- All Customer Care Notes for the account
- All Fault Reports for the account
- Telstra Corporation's assessment of whether Mr Lewis is entitled to compensation under the Customer Service Guarantee in relation to any of the faults reported above. Please include its reasons for the assessment for each fault reported.

The TIO has forwarded a copy of this letter to the complainant and asked them to pay any undisputed charges. While this complaint is under consideration, the TIO expects that Telstra Corporation will suspend credit management on any disputed charges.

The TIO may also forward Telstra Corporation's response to the complainant. For this reason, please ensure that it is written in plain English.

Please forward your reply to this letter within the next 28 days. The TIO may escalate the complaint to Level 4 status if Telstra Corporation does not respond to the TIO within this time frame or provide information requested.

Please contact me if you would like to discuss any aspect of this complaint.

Yours sincerely

A handwritten signature in black ink, appearing to be 'GK' or similar initials, written in a cursive style.

Gillian Mc Kenzie
Investigations Officer

Darren and Jenny Lewis
Cape Bridgewater Coastal Camp
RMB 4408, Cape Bridgewater
Portland, 3305
Phone: 03 55-267 267

23rd January 2003

Mr John Pinnock
Telecommunication Industry Ombudsman
P Box 276
Collins Street West
Melbourne 8007

Dear Mr Pinnock,

During a conversation with a representative from David Hawker's office earlier today, I was advised to ask your office to investigate the phone problems my wife and I have continually experienced since we bought our business from Alan Smith in December 2001.

Although these phone problems have decreased dramatically since Telstra rewired the business and disconnected the phone alarm bell recently, we still have problems with the fax line, as was demonstrated when I attempted to send a fax to your office yesterday. I am also concerned that, since the rewiring, Telstra's CCAS data still shows as many as seven incoming calls a day not being answered, even though we are at home at the time.

As well as speaking to David Hawker's representative this morning, I also had a disturbing discussion with Tony Watson, the Telstra fault technician assigned to my case. Mr Watson informed me (in a round-about way) that he is reluctant to supply me with any more information in relation to our phone faults because he knows I am in contact with Alan Smith, the previous owner of the business. Apparently Telstra is afraid that, when talking to Alan, I might bring up the phone problems and therefore provide him with information he could use in an attempt to reopen his arbitration. I am not interested in Alan's past phone problems, or his arbitration, except from the perspective of his obviously blatantly misleading reassurances, when we first bought the business, that Telstra had fixed all the phone faults.

Before we bought this business, my wife and I ran another business of our own for five years, successfully using the telephone, fax and Internet to sell memorabilia. Never before have we experienced phone faults like those we have had to cope with since we moved to Cape Bridgewater.

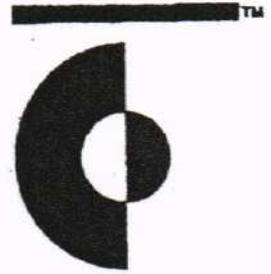
Since I am certainly *not* working in liaison with Alan Smith (as was suggested this morning by Telstra's Tony Watson), I am therefore now asking your office for advice on this matter in the hope that you will be able to help us to repair the damage that has been done to our business to date.

Will you please assist us in this matter?

Sincerely,

Darren and Jenny Lewis
Copy to: David Hawker MP, Federal Member for Wannon, 190 Gray St, Hamilton 3300

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Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

10 February, 1999

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

Facsimile 03 5572 1141

Dear Mr Hawker

Mr Alan Smith

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

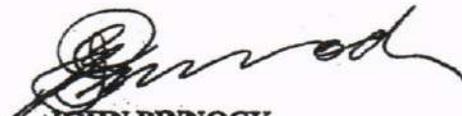
You will be aware from previous correspondence that Mr Smith has made numerous and varied accusations about the conduct of his Arbitration, which was completed in May 1995, by the TIO, the Arbitrator and the Resource Unit which provided expert assistance to the Arbitrator.

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

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

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

Yours sincerely


JOHN PINNOCK
OMBUDSMAN

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

At registration 1058

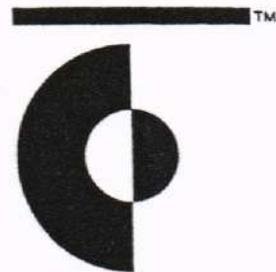
Telecommunications Industry Ombudsman Ltd

ACN 057 634 787

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Telephone (03) 8600 8700
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Fax Freecall 1800 630 614



10 February, 1999

Telecommunications
Industry
Ombudsman

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

John Pinnock
Ombudsman

Facsimile 02 6271 1901

Dear Mr Dunstone

Mr Alan Smith

I refer to your letter of 29 January 1999.

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

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

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

Yours sincerely



JOHN PINNOCK
OMBUDSMAN

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

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AtU/plainant/1056

Telecommunications Industry Ombudsman Ltd

ACN 057 634 787

Website: www.tio.com.au
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Collins Street West
Melbourne
Victoria 8007

Telephone (03) 8600 8700
Facsimile (03) 8600 8797
Tel. Freecall 1800 062 058
Fax Freecall 1800 630 614

FAX FROM: ALAN SMITH <i>sh</i> Cape Bridgewater Holiday Camp Portland 3305	FAX TO: MR JOHN PINNOCK TELECOMMUNICATIONS INDUSTRY OMBUDSMAN -MELBOURNE
FAX NO: 055 267 230	DATE: 26.6.96
PHONE NO: 068 816 522	NUMBER OF PAGES (including this page) /

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

Dear Mr Pinnock,

Please note: Letter date 25/6/96, page 3 - FOI document referred to as A63681, date 12/4/95 should read A63658 dated 27/2/95.

I find it very sad to be in possession of so many FOI documents which support my allegations that many, many copies of internal correspondence I forwarded to Dr Hughes during the FTAP was never seen by the Resource Unit or Telstra.

It is equally sad that copies of Telstra letters, which were also part of the FTAP, were not forwarded to me.

This FTAP was a demonstration of what happens in Australia today when a small business like mine, with limited finances and other resources, attempts to secure justice from large corporations with unlimited financial backing and resources, like Ferrier Hodgson Corporate Advisory, Lanes Telecommunications, Hunt & Hunt, and Telstra.

No-one that I know; friends, the co-author of my forthcoming publication and others, can understand how I keep going in this battle, with the knowledge I have of the unethical behaviour I have been forced to contend with.

In the name of Australian justice there must be some way to 'overhaul' the FTAP saga.

Sincerely,



Alan Smith

There are quite serious allegations. We need to respond to specific letters Smith says weren't forwarded or received and provide answers on each. ~~to~~

A2

25 August, 1998



**Telecommunications
Industry
Ombudsman**

**John Pinnock
Ombudsman**

TIO Ref: D/98/3

Mr Alan Smith
Cape Bridgewater Holiday Camp
RMB 4408
PORTLAND VIC 3305

Dear Mr Smith

I have considered the material which you have recently sent to the Deputy Ombudsman, regarding the non-receipt of documents by the Arbitrator. I would remind you however, of the completion of the arbitration in May, 1995 and confirm my repeated advice to you, which I have also provided to the Department of Communications, Information Economy and the Arts. I am unable to now consider these matters.

The only issues that I am considering, as the former Administrator of your Arbitration, are the alleged overcharging for your 1800 service and matters pertaining to your Gold Phone service, and whether they were considered in the final award. The Deputy Ombudsman has taken up these issues with the Arbitrator of your case, as I believe you have been informed.

Yours sincerely

**JOHN PINNOCK
OMBUDSMAN**

50

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Telecommunications Industry Ombudsman Ltd ACN 057 634 787

Website: www.tio.com.au
E-mail: tio@tio.com.au
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Melbourne
Victoria 8003

Telephone (03) 9277 8777
Facsimile (03) 9277 8797
Tel. Freecall 1800 062 058
Fax Freecall 1800 630 614

Wally

This matter should be classified as a Scruple

Telstra

107

Please advise Jim & handle yourself. We will need to discuss P. of any raw data etc Smith may have sent us.

4 February 1998

Regulatory & External Affairs

RECEIVED
6 FEB 1998
Please discuss content of letter to Smith. J/S

37/242 Exhibition Street
Melbourne Vic 3000
Australia

Telephone 03 9634 2977
Facsimile 03 9632 3235

9/2.

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

This has gone to DISPUTE

D/98/3. Any papers dealing with 1800 problems should be passed to me for dispute resolution. J/S 17/2.

Dear John

Mr Alan Smith - Dispute 1800 Charges

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

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

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

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

49-A



Telstra is a proud sponsor of the Australian Olympic Team

Telstra Corporation Limited
ACN 051 775 556

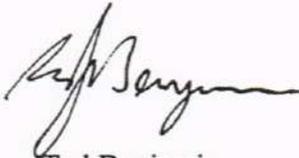
Further, Telstra responded to investigations undertaken by Austel on 16 October, 1995. This response related to correspondence from Austel dated 4 October, 1994, 1 December, 1994 and 3 October, 1995. This response addressed Mr Smith's concerns relating to Telstra's billing of 1800 telephone services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

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

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

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

Yours sincerely

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

Ted Benjamin
DIRECTOR, CONSUMER AFFAIRS

2

FILE NOTE

Legal and Professional Privilege Applies - Telecom Confidential

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

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

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

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

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

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

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

Lyn Chisholm - Telstra
Phil Carless - Telstra

Alan Smith - Cape Bridgewater Holiday Camp
Ray Whitworth - Observer

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

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

49-B

2

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

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

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

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

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

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

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

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

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

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

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

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

2

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

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

CUSTOMER COMPLAINT FORM

0282

Name : CAPEBRIDGEWATER RESORT
 Phone : (055) 267267
 Date Init : 02/02/93
 Controlled By: BRT
 Source : General Manager
 Catagory : SD
 File Location: Customer Complaints
 Status : O (O = Open, C = Closed)
 Cost : \$ 0.00
 Date Closed : / /

Handwritten: NOT file
 *
 202
 115

Notes:

CONTACT: ALLAN SMITH

Allan Smith called this morning to report he had been c/o during conversation on a call to 0175. He is also worried that there has been no response to an advertising campaign he is running in the Ballarat Courier in the past three weeks although there was a good response in the first week. He asked me if there may be a Network problem that may be effecting traffic between Ballarat and Cape Bridgewater. I am unaware of any problems, but told Mr. Smith I would look into it for him. I contacted Gordon Hansen at Network Ops [Country] and gave him a list of areas Mr. Smith has been expecting calls from. He shall investigate and get back to me.

B.P 2/2/93

Allan Smith called me this afternoon, he has been trying to call 3 numbers in Ballarat and been experiencing No Progress. He is very disturbed that people in the Ballarat area may be experiencing the same problem trying to call him. I contacted [redacted] and gave him the 3 Ballarat Numbers provided to me by Mr. Smith. He shall carry out some testing and get back to me.

B.P 2/2/93

[redacted] called back the three numbers provided by Mr. Smith. The initial lines off the same PABX. About 50% of the calls he attempted failed. It appears that the problem is between the Exchange and the PABX. Telecom Staff at Ballarat are working on the problem. Gordon Stokes shall contact me when the problem is resolved. I have informed Allan Smith of the progress so far.

B.P 2/2/93

[redacted] [Austel] called this morning Allan Smith has been in contact with her. She said he is very upset with the service he is receiving and he is unsure that Telecom are taking his problems seriously. I informed her that we take all reports and requests from our customers very seriously and told what steps had been taken in regard to Mr. Smith's complaints and that I would keep her informed of the progress.

B.P 3/2/93

[redacted] called Gordon Stokes for a progress report on Allan Smith's problems calling the PABX in Ballarat. The Ballarat Customer Operations Group currently have a shortage of staff with PABX expertise and have not yet attended the the PABX.

B.P 4/2/93

[redacted] spoke to Allan Smith after he called [redacted] wanting to contact Roseanne Pittard. He received one burst of ring at 1.15 pm and 5.05 yesterday, when he picked up the receiver he heard dial tone. His problem occurs intermittently through-out the Network and

Handwritten: 48

CUSTOMER COMPLAINT FORM

NAME: CARROLL J. WATSON
ADDRESS: 10281 262nd St
CITY: OLYMPIA
STATE: WA
ZIP: 98512
PHONE: 360-885-1234
DATE: 10/20/88
TIME: 10:00 AM

I am writing to you to report a problem I had with your service. On 10/15/88, I called your office to report a problem with my account. The representative I spoke to was very helpful and explained the situation to me. However, the problem has not been resolved and I am still having difficulties. I am disappointed in the service I have received and would like to see this resolved as soon as possible.

In my opinion, the service I received was not satisfactory. I was not kept informed of the progress of my complaint and the resolution process was slow. I would like to see a more efficient process for handling customer complaints.

I would like to see the following actions taken to resolve my complaint: 1. A full refund of the amount in question. 2. An apology from your company. 3. A review of the service process to prevent similar issues in the future.

I am sure that you will take the necessary steps to resolve this matter. I am confident in your ability to provide excellent customer service and I appreciate your attention to this matter.

Thank you for your time and attention. I look forward to hearing from you soon.

Sincerely,
Carroll J. Watson
10281 262nd St
Olympia, WA 98512
360-885-1234

11/1/88

Bridgewater from public telephones at Terang and Colac a further call was tried from Geelong via a mobile phone but the call dropped out whilst ringing due to a flat battery. This I explained to Allen when I recontacted him on arrival in Melbourne.

12/02/93

[redacted] tried to ring from RCM before going to measure line current, but got no answer. On arrival at the premises he was met by Mr Smith who stated he was having problems with his Telecom cordless phone. [redacted] found the switch on the phone was not operated correctly, preventing the phone from ringing. Mr Smith also had his LSA turned off and therefore would not have heard any incoming calls whilst he was out of the office. [redacted] measured the line current at 42 ma for the fax, answer machine and phone. Mr Smith also mentioned he was very pleased as he had 38 calls since my visit and not one complaint of not getting through. [redacted] visited on 18/02/93.

19/02/93

Had a call from [redacted] to say a Ballarat customer of A Smith had put a fault in via 1100 indicating she could not get through. [redacted] suggested he may be able to move Mr Smith out of this system into another. I attempted to ring Mr Smith when the ring tripped I received a noise similar to "carrier noise" and a very faint "hello" after waiting a while the person at the other end hung up. I then rang the Portland depot to have a message passed to [redacted]. After approx a half hour I rang 267267 again and this time got through ok. Allan assured me he had only his normal phone and cordless phone plugged in. He stated several people had rung and reported the same problem from [redacted] and [redacted].



[redacted] rang back and I organised him to change both Mr Smiths lines into separate systems. 267267 in sys 3 ch 16 267230 in sys 2 chan 28. [redacted] and Myself then made several test calls to 267267 all of which worked ok. 267230 does not have a Fax connected at the moment as it has been returned to the point of purchase as it has gone faulty.

24/02/93

Rang Mr Smith this morning still having breaking up of transmission problems. [redacted] OIC rang and was asked to ring [redacted] to request assistance in monitoring the rcm bearers.

25/02/93

I made several calls to A Smith over the weekend whilst on a personal visit to Ballarat via a mobile phone and pay phones all calls were successful. Also received advice from pair gains area they would visit Cape Bridgewater today or tomorrow.

2/3/93

[redacted] from pair gains support rang to advise me he had found several problems with the RCM system Mr Smith was previously connected to. The major problem was caused by faulty termination of resistors on the bearer block protection another problem was caused by non modified channel cards, a full report will be submitted by Len in the next week. I have notified [redacted] of the results of the investigation and will follow up her suggestion of now having asycall connected to Mr Smith's line. This follows [redacted] comment that Mr Smith made many outgoing calls thus preventing people calling him. I will notify Mr Smith of the results and talk to him regarding Easycall.

5/3/93

[redacted] rang Capebridgewater but Mr Smith was out, his assistant stated she had received several calls where on lift off all she heard was dial tone, this is after we shifted 267267 and 267230 into sys3 in the RCM. I believe this may be tried up with the axe network problem which gives only 1 burst of ring and the calling party gets busy tone.

9/3/93

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Mr Smith returned my call from yesterday, I explained the results of our investigation and the axe problem. He once again mentioned the

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11.11

COPY



28 June 1995

Telecommunications
Industry
Ombudsman

Strictly Confidential

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

John Pinnock
Ombudsman

By facsimile: (055) 267 230

Dear Mr Smith

I refer to your recent correspondence.

So far as your request concerning the Bell Canada raw data is concerned, our file shows that on 15 August 1994 you asked the Arbitrator to direct Telecom to produce this information. On 16 August 1994 Dr Hughes asked Telecom for its reaction to your request so that he could consider appropriate directions on the matter. There is no indication on our file that Telecom responded. Nonetheless, on 25 August 1994 you provided statutory declarations to the Arbitrator to the effect that your claim documentation was complete.

Our file then shows that by letter dated 28 December 1994 you again formally requested the Arbitrator to require Telecom to provide the raw data associated with the Bell Canada testing. The Arbitrator wrote to Telecom that day enclosing a copy of your letter and requesting a submission in relation to your request. Telecom's submission, dated 13 January 1995, insofar as it related to your request for the raw data stated:

" Telecom located some of Bell Canada International's working documents which were thought to be in the possession of Bell Canada International but which were later found to have been left with Telecom staff in Australia.

Those working documents, insofar as they related to Mr Smith's business and fell within the scope of his FOI request of December 1993 were provided to Mr Smith under cover of my letter dated 21 October 1994. Mr Smith has previously been informed (by letter dated 15 December 1994 from Telecom to Mr Smith) that, as far as I am aware, all Bell Canada International's working documents (including raw data) in Telecom's possession have already been provided to him."

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

47

Dr Hughes provided you with a copy of this submission on 23 January 1995, noting that Telecom did not consider it had any further information of relevance in its possession. Dr Hughes then invited you, within twenty-four hours, to respond to Telecom's submission. Our file does not indicate that you took the matter any further.

In other correspondence you refer to what you apparently now see as problems in the process of developing the Fast-Track Arbitration Procedure, an agreement which flowed from the Fast Track Settlement Proposal negotiated by AUSTEL and the parties in November 1993.

I understand that during that negotiation process Mr Schorer and Mrs Garms sought their own independent legal advice. Of course you had the opportunity to do likewise.

The Arbitration Procedure that was subsequently agreed to by all the parties set out a fair and realistic framework within which these longstanding disputes could be resolved.

The problems in the provision of documentation under FOI did cause delays in the progress of these arbitrations. However, as you are aware, this office has no jurisdiction over FOI, which is instead within the realm of the Commonwealth Ombudsman.

As you know, Dr Hughes took the view that it would assist neither the parties nor the process itself to insist on the adherence to submission deadlines when FOI applications by the claimants remained outstanding. It was not possible or appropriate for Dr Hughes or this office to play a more active role in the FOI issue.

Your concerns, only recently expressed, with the Arbitration Procedure appear to be based on the grounds that you had no guidance as to how to present your claim to the Arbitrator, in the face of the far greater resources available to Telstra for the preparation of its defence. Of course, in order to maintain the integrity and impartiality of the arbitration procedure, neither this office nor the Arbitrator could provide you with such guidance. Dr Hughes states in his Award that he took into account the fact that you formulated your claim submissions without legal representation. He also notes that he did not believe it would have been reasonable to expect you to present your claim in a manner similar to that which would have been adopted by a legal practitioner.

While you may be disappointed with the Arbitrator's findings as to the losses which flowed from the considerable technical difficulties for which Telecom was found liable, this should not detract from your justifiable sense of great achievement with regard to the technical findings.

The Arbitration process has run its course, and a final resolution has been achieved. There is nothing to be gained by revisiting issues which have been dealt with in the arbitration procedure. Neither Dr Hughes nor this office has any further role to play in the matters which gave rise to your dispute with Telecom which has now been resolved.

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However, if you do experience any further problems with your telecommunications services that are unrelated to the matters resolved by the arbitration procedure please do not hesitate to contact us.

Yours sincerely



John Pinnock
Ombudsman

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FAX FROM: ALAN SMITH
C. O. T.

DATE: 24.1.95

FAX NO: 056 287 230

PHONE NO: 008 816 522

NUMBER OF PAGES (including this page)

FAX TO: DR GORDON HUGHES
HUNT & HUNT
LAWYERS
MELBOURNE

Dear Dr Hughes,

ARBITRATION - TELECOM

I refer to your letter of 23 January, 1995.

Please may I suggest that, after viewing my reply to Telecom's Defence Documents titled "Brief Summary Witness Statements Conflicting Evidence", under the heading of "Bell Canada International", you and the Resource Team will be in a better position to see the point I am making regarding the CCS7 data.

The report clearly shows that such CCS7 data was used in the Bell Canada testing for their findings regarding faults, switching losses, busy, congestion etc. This information would have only come from the CCS7 equipment used to trap these test calls.

Mr Ted Benjamin of Telecom, in his letter to Dr Hughes, states that Telecom have supplied to Mr Smith all CCS7 and working documents associated with the Bell Canada testing, but Telecom have only sent me one day of CCS7 data, for the 4/11/93. The Bell Canada testing did not start until 5/11/93 and it ended at 14.30 hours on 9/11/93. The working documents that have been supplied, copies of which are being sent with this document, do not completely correspond with those from the Bell Canada Publicly Released Documents. Although I do not wish to confuse the main issue in your response to Telecom's letter, I do believe that there are still issues related to this Bell Canada testing that should be clarified, along with the response to this letter.

After the Resource Team views this report of mine, using the Bell Canada Report and Telecom notes, the Resource Team will again see variations, conflicting testing results associated not only with the Bell Canada testing, but also associated with the NEAT testing which was carried out at the same time as the Bell Canada testing.

My letter to you on the 28th August, 1994 regarding the contents of this report shows three different acts of testing on the 5/11/93, from three separate locations and all to the same PTARS at the RCM in Cape Bridgewater. This letter spells out my concerns.

Dr Hughes, Telecom's defence documents show testing from 1988, some 44 monthly test sheets, tests to a PTARS at Cape Bridgewater. Not one of these test sheets was signed. We have so many tests that were supposed to have been received at Cape Bridgewater yet NO signatures can be seen anywhere.

On 11th December, 1992, Jim Holmes of the Corporate Secretary's Office, sent a letter to Jill Cardiff, Senior Assistant Ombudsman at the Commonwealth Ombudsman's Office. This letter speaks of test calls. There are improprieties apart from this issue concerning these test calls that I have addressed with the Commonwealth Ombudsman's Office under section 9 of the Act. However, in relation to the test calls in question, some 34,686 calls that were supposed to have been generated to Cape Bridgewater, Telecom has not been able to produce

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technical data to validate any of these test calls. Telecom has though, in their letter to Ms Cardiff, stated that, out of those 34,686 test calls only 106 failures occurred. However, in Telecom's own Defence Documents, appendix 5 at 3!, they state that the failure rate was 1,569.

C.O.T. and its members, myself included, have asked Telecom repeatedly to provide this technical data regarding these so called 'received calls' at our businesses and at test stations. Telecom has failed here at Cape Bridgewater to supply any data at all to validate even one set of test calls.

Further to my report on the Bell Canada testing it will be seen, from Telecom's own documents, that the NEAT testing was capturing (or should I say, was supposed to capture) all tests to my business. My question is, did Telecom have two sets of CCS7 operating at the one time; one to my business and one to the PTARS at the RCM at Cape Bridgewater? Whichever, not one piece of CCS7 data has been produced for my viewing.

Also in this Bell Canada report, again using Telecom's own documents, it will be seen that Telecom had raw ELMi tape testing at this business sent directly to AUSTEL, but I have not yet seen the raw tape data which was asked for some six months ago.

The claim that I have against Telecom is that I did not receive all the calls which were intended for this business. Telecom states that they were received on a percentage basis. Telecom says that I received those calls percentage-wise but I have documentation that shows that this is not the case: letters from clients, businesses and from Telecom themselves, stating that they could not make contact at will. Test calls were a part of Telecom's proof that these calls did get through.

Telecom used CCAS and CCS7 testing equipment to capture these test calls to present a pattern in a graph/table form, for their own NNI investigating teams. The proof is in the CCS7 data. If Telecom have been unable to provide any testing results or data to show that test calls did finish at the intended location, the PTARS RCM at Cape Bridgewater or this business, then Telecom have no defence.

Your letter of 23 January, 1995 specifically mentioned that you wanted to be sure that there was no confusion surrounding the CCS7 data; that the dates shown in Mr Benjamin's letter were not misunderstood. My request is once again presented in this letter: CCS7 data had to be used in this testing. It is shown in the Bell Canada Report as being used. Without these CCS7 test results it must be seen that either Telecom is hindering my case, or they fabricated the testing.

I leave this matter in your hands.

Sincerely,



Alan Smith

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18/11/02

Mr Alan Smith
Cape Bridgewater Convention Centre and Holiday Camp
Blowholes Road
Cape Bridgewater. Vic 3305

Re. Casualties of Telstra.

Dear Alan

I am writing to you following viewing the Channel 9 Sunday Program on 3/11/02. After viewing the Sunday program, I realised the similarities your business and others had with Telstra some ten years ago with the similarities our building business had, when we lived at Bridgewater.

During a period of time between the late 1980s and early 1990s we had a considerable amount of difficulty with our phone. The problem with our phone line was although we could ring out to people, people couldn't ring through to us. They appeared to receive an engaged signal. We weren't aware of the problem until business friends and relations in Portland stated that they had tried on several occasions to ring us but couldn't get through. We were aware of the times when they rang as we were home at the time. The calls never rang through to our house.

During this period of time I was on a call talking to a councilor. She believed that the conversation we were having was being bugged, or listened into, and so we immediately ceased the call. At the time I was having difficulty with Kalari Transports and I believed they were involved. They were stopping us from building our house on the farm.

Our phone problem had such a negative effect on our building business over a period of time that our work dried up and our business shut down. Our business had been running successfully for several years prior to the phone problem. I ended up having to find alternative employment on wages and now live and work in Adelaide with my family. It has taken us several years to financially recover from the business closing and we are just starting to break even today.

During that period of time I may have complained to the Telecom Ombudsman but as it was some time ago I cannot fully recall. About three to four years ago (just before I left Portland) I received a call from the Victorian Police Fraud Squad inquiring about Telstra, the difficulties we had with Telstra and a Portland Telecom Technician by the name of [REDACTED]. The police officer did not go into detail as to what he was investigating.

It now appears that after watching the Sunday program, we were possibly one of the 'Casualties of Telstra'.

If you have any information that would bring us up to speed on this issue or a contact list for assistance or advice could you please forward the information to the address noted below.

Yours faithfully



Barry Sullivan

[REDACTED]
[REDACTED] SA [REDACTED]

Mobile 040 [REDACTED]
AH (08) [REDACTED]

45

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390 rows selected.

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44

SMITH.DOC

: - DOES NOT EXIST

SOLUTION = :CUS - CUSTOMER
10/05/94 CSR: ZV333FIELD EMPLOYEE: E767 TONY WATSON
IN HAND TONY WATSON

10/05/94 I reported this incident in LEOPARD on 055217777 and notified Chris Doody. We were able to duplicate the incident during testing; 217777 was diverted to 236101 with easycall and when 236101 was busy, a call to 217777 would return one burst of ring then busy.

11/05/94 Chris Doody called me this morning and said the incident is caused by AXE104 system limitation, that is the incident is normal and the customer is aware of that.
11/05/94 09:25, Mr Alan Smith was notified of the result.

SOLUTION = Tony Watson.....
11/05/94 10:33 ZV333
Chris Doody is sending a report on the incident.
Tony Watson.....

DATE START END SYMPT CAUSE ACT'N EMP
10/05/94 13.47 13.48 NF WJ YT E767
***** NO PART DETAIL *****

ORDER = S6701981 STATUS = CL
CUSTOMER = 259289 TELEPHONE = 055 267267
CAPE BRIDGWATER HOL. CAMP ALAN SMITH
BLOWHOLE RD VIC 3306
CAPE BDWTR

CALLLED IN = 04/05/94 14.03
CLOSED = 04/05/94 14.04
DESCRIPTION = 27/04/94 13:30 visit to Alan Smith
NARRATIVE = 4/05/94 13:48 ZV333

27/04/94 13:30 Appointment for Ross Anderson to visit Alan Smith to investigate the report of 267230 possibly holding up, after the phone was hung up.

:BNU - BUSY NOT IN USE
: - DOES NOT EXIST
:CUS - CUSTOMER

SOLUTION = 4/05/94 CSR: ZV333FIELD EMPLOYEE: E767 TONY WATSON

This fault report was initiated by Peter Gamble. Peter was doing some testing with Alan Smith and apparently they were able to hang up Smith's phone and while Peter was still listening at his phone he could hear Mr Smith talking in his office. In fact Mr Smith counted to 10 then picked up his phone again and Peter had been able to hear the count to 10.

On the 27/04/94 at 13:30 Ross Anderson visited the premises to investigate these claims. Ross called Peter Raphael on 03 5507309 and made 10 test calls, Ross was hanging up then counting to 10 and picking the phone up again, each test call was released (that is line was heard to drop out) at

SOLUTION = 5/05/94 9:10 ZV333
within 1 second of hanging up. Peter was able to hear Ross count 1 then the line released.

I spoke to Ross whilst he was on site and we made further test call (18 calls of which 2 were from 267267), during these test calls we obtained the same result as previous, that is the line released within 1 second. We also tried the T200 from 267267 on 267230 and it released immediately on hanging up. We then tested the suspect T200 on 267267 and it displayed the same symptom on this different line. This T200 is an EXICOM and the other T200 is an ALCATEL, we thought that this may be a design "fault???" with the EXICOM so Ross

SOLUTION = 5/05/94 9:27 ZV333
tried a new EXICOM from his car and it worked perfectly, that is, released the line immediately on hanging up. We decided to leave the new phone and the old phone was marked and tagged, Ross forwarded the phone to FM&D.
I was speaking to Mr Smith the next day (28/04/94) and he said he has witnesses to prove that his phone used to hold up for over 10 seconds. He wants a letter to say nothing else has been fixed prior to the visit by Ross that could

EXICOM TELEPHONES.

With the onset of the "wet" season in Northern Australia it has become apparent that we are having a significantly higher fault rate with T 200 telephones that would have been normally expected. The problem was first apparent in Darwin but it has been closely followed by Cairns and Townsville. Over the past weeks the problem has reached Southern Queensland.

The most common fault is line looping which can either be permanent or intermittent. A related problem is that the phone loops the line after a single burst of ring. The called party has not answered but the phone is off the hook and sometimes the calling party can hear all activity at the called end. In this case the call would also appear on the billing record as a short duration call. Breakthrough Billing have been informed of this possibility.

Tests were carried out by TRL and the problem isolated to the Exicom flexible keypad circuit layers which were manufactured after week 7 of 1993. Exicom are the sole supplier of Serial 550/141 "tropicalised" telephones which are treated with conformal coating and these phones are deployed in areas of high humidity. High humidity is the specific condition most likely to bring about the fault. Therefore in areas of high humidity we have a potential major fault problem.

DEPLOYMENT.

Whilst I do not have the total deployment of Exicom phones available it has been assessed that there is approximately 450,000 phones with potential faults. Of these there are 325,000 Serial 550/141 phones deployed in areas of high moisture. Approximate deployment of the Serial 550/141 phones since April 1993 is:

Queenstand	225000
Darwin	9000
Western Australia	90000

In these areas virtually all T200's installed or used as replacements during maintenance have a potential problem. In addition there are some 125000 in other areas. ---

IMPACT.**Darwin.**

The problems in Darwin have been addressed. Since December no more Exicom phones have been used. All supplies have been sourced from Alcatel and whilst these do not have the conformal coating tests indicate that they are performing satisfactorily. Whilst there are still phones in-situ with potential defects the situation is considered manageable.

Queensland.

The Queensland situation is very serious. The situation has progressively worsened as the wet has moved south. It has significantly worsened over the past two weeks as cyclone Rewa has moved off the Queensland Coast and brought with it very heavy storm activity and high moisture conditions. The effect in Queensland is that in January we are experiencing the need to replace phones at the rate of 12000 a month compared to the expected 8500. Under the present Union agreements each of these replacements require a visit by field staff.

In Queensland we have taken the following actions:

1. Following the success of the trial of the Alcatel phone in Darwin, supplies of Exicom phones to Queensland have ceased and all further phones used will be sourced from Alcatel. Because of the supply problems Exicom phones will still have to be deployed in areas of lower moisture risk.
2. We still have a heavy backlog of work due to the impact of Cyclone Rewa. Staff have been recalled on duty and over the weekend we have loaned all available staff from C & G. Pay phones, CED to work with the SDU to replace telephones. Whilst this may overcome the present problem it does not offer a sustainable long term solution.

D01026

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3. We have set up discussions with the CWU with the view of implementing any of the following:

Use of Fixed Term employees for three months

Use of Couriers to deliver phones where the fault is diagnosed as being in the phone.

Use of contract labour.

All these actions are costly in terms of SDU expenses. The recently completed Mercer Study estimates that the cost of a visit is \$237. No allowance has been made for this activity in the SDU budget.

With the Ballot due in March we must address the problem as aggressively as possible. Consideration should also be given to seeking compensation from TT or Exdoom.

Western Australia.

The heavy population areas in WA are in the South and traditionally the weather is not expected to effect these areas until February or March. We are amanging for Alcatel phones to be supplied to northern areas.

001027

\$76,788,000

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AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

94/0269

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16 November 1994

Mr S Black
Group General Manager
Customer Affairs
TELECOM

Facsimile No: (03) 632 3241

Dear Steve

SERVICE VERIFICATION TEST ISSUES

The recent SVT results for Mr Alan Smith raise some issues on which AUSTEL requests clarification, as follows.

- The letter provided to Mr Smith informing him of his SVT results notes that the Public Network Call Delivery Tests relevant to his 008 service used a 1-800 number that simulated the routing of his 008 services. AUSTEL is seeking confirmation from Telecom that the network equipment utilised on calls to the 1-800 number is the same as that which would have been used by calls to Mr Smith's 008 service (with the exception of the termination number).
- The Call Distribution Tables on pages 12 and 14 record that the total calls made to each number are in excess of 600. AUSTEL requests that Telecom detail the process which determines the "1st 500" calls under test 6.3, given that a combined total of over 600 calls have been made from multiple origins.

I would also like to take this opportunity to formally confirm three issues raised at our recent meeting of 9 November 1994.

- (1) Telecom will provide AUSTEL with the detailed individual call data (ie. time of day & origin of call) which has been the subject of previous correspondence from AUSTEL. This data was originally requested by AUSTEL on 25 August 1994. As discussed at our meeting, the data is

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required by AUSTEL as part of our review of the SVT, and will be required by the consultant assisting AUSTEL in this review. (Please note that call data for all the test calls is required, not just the data for the first 500 calls). AUSTEL requires this data by 23 November 1994. The provision of this data by this date is essential to the effectiveness of AUSTEL's review of the SVT.

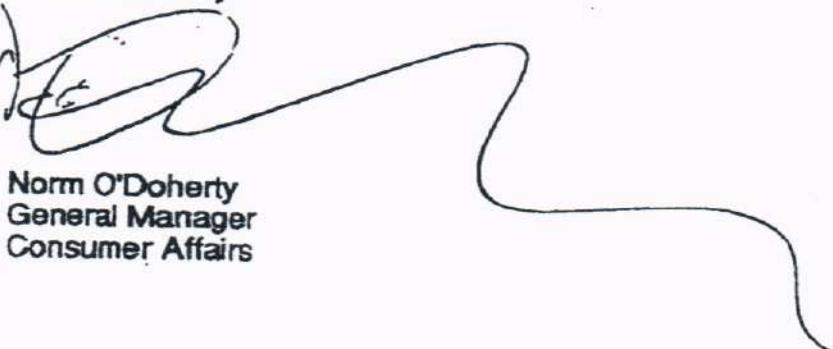
- (2) In the near future Telecom will conduct the "Demonstration Tests" on the services of customers for whom the SVT have been completed. AUSTEL notes that the SVT were conducted a considerable time ago on some of these customer's services. Although these tests are not part of the SVT, this data will be used by AUSTEL in our review of issues related to the SVT. The results from the "Demonstration Tests" will also be provided to our consultant, and AUSTEL requires some of these test results by 23 November 1994.
- (3) That Telecom will shortly provide, as requested in AUSTEL's letter of 11 October 1994, a statement on:

the deficiency of the current testing process for the "Call Continuity / Dropouts to Neighbouring LIC" test contained in the Service Verification Tests (SVT). This statement should also detail the action Telecom intends to take to address this deficiency.

This statement will be provided to AUSTEL's consultant as part of the review of the SVT, and is required by 23 November 1994.

The three matters detailed above have been all been outstanding for some time. I would be grateful if you could address your personal attention to ensuring the required information is provided to AUSTEL by the date requested.

Yours sincerely


Norm O'Doherty
General Manager
Consumer Affairs

STOPDATE = (1994-09-30) ?
 EXCEPTIONS-ONLY = (NO) ?
 DATACHANNEL = (2) ?

UNSORTED DATA FROM MASS STORAGE

DIRECTORY	CALL CLASS	TIME	NUMBER DIALLED /RING/OPERATOR	WAIT	CONVERS. TIME	METERING
	DE	940929 00:52:00	OPER: AUTODUMP			
	LETE					
	LOG					
	LOG	940929 00:52:00	OPER: AUTODUMP			
	OUT					
	WAR	940929 00:52:17	DATACHANNEL DISC			
	NING		CONNECTED, ERROR			
			ID.: 97, PARAMET			
			ERS: 2,0			
267230	OAQ	940929 07:48:22	032851770	00:32	00:00:29	
267230	OAQ	940929 08:24:06	038761853	00:28	00:00:43	
267230	OAQ	940929 08:26:09	038761853	00:31	00:00:37	
267230	OAQ	940929 08:27:27	038761254	00:27	00:00:41	
267267	IA	940929 08:47:29	RINGINGS: 6	00:08	00:24:49	
267230	OAQ	940929 09:12:31	038761254	00:27	00:00:01	
267230	OAQ	940929 09:21:52	038761254	00:32	00:00:30	
267211	OUQ	940929 09:27:51	267298	00:18		
267230	OAQ	940929 09:27:47	0175	00:23	00:00:23	
267230	OUQ	940929 09:28:34	036704672	00:16		
267230	OUQ	940929 09:28:52	036704672	00:15		
267230	IU	940929 09:32:43	RINGINGS: 2	00:05		
267230	IU	940929 09:33:04	RINGINGS: 2	00:04		
267267	IA	940929 09:30:57	RINGINGS: 4	00:05	00:06:13	
267230	OAQ	940929 09:40:54	036704672	00:27	00:09:57	
267211	IA	940929 10:06:10	RINGINGS: 4	00:05	00:00:49	
267260	OAQ	940929 10:06:00	267211	00:29	00:00:45	
267260	OAQ	940929 10:10:58	1818	00:27	00:01:19	
267211	IA	940929 10:12:01	RINGINGS: 2	00:03	00:01:00	
267211	OUQ	940929 10:14:19	267260	00:04		
267260	OUQ	940929 10:13:44	1818311344033113	00:50		
267260	OUQ	940929 10:16:21	081231	00:25		
267260	OAQ	940929 10:17:24	1818	00:24	00:01:12	
267211	IA	940929 10:18:18	RINGINGS: 2	00:03	00:00:44	
267267	IA	940929 10:47:23	RINGINGS: 6	00:09	00:00:52	
267211	OAQ	940929 10:56:16	038423040	00:25	00:01:38	
267260	OAQ	940929 10:49:14	11	04:10	00:07:04	
267211	IA	940929 10:59:58	RINGINGS: 8	00:12	00:01:23	
267211	IA	940929 11:01:43	RINGINGS: 2	00:02	00:01:15	
267260	OAQ	940929 11:00:55	1818311344038924	00:54	00:01:12	
267230	OAQ	940929 11:07:04	232111	00:26	00:00:44	
267230	OAQ	940929 11:12:57	1818311344038924	00:58	00:00:37	
267211	IA	940929 11:13:47	RINGINGS: 4	00:05	00:00:43	
267267	IU	940929 11:32:24	RINGINGS: 12	00:20		
267267	IA	940929 11:33:08	RINGINGS: 8	00:10	00:00:47	
267267	IA	940929 11:35:29	RINGINGS: 4	00:06	00:01:12	
267267	OAQ	940929 11:40:22	1818311344038924	00:55	00:00:24	
267211	IA	940929 11:41:10	RINGINGS: 6	00:09	00:00:26	
267230	IA	940929 11:50:39	RINGINGS: 30	00:44	00:02:04	
267267	IA	940929 12:03:43	RINGINGS: 8	00:11	00:00:50	
267230	OAQ	940929 12:08:25	1818311344038924	01:05	00:00:41	

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