CAV
CHRONOLOGY
LGE

Exhibit 282 to 323

PARLIAMENT OF AUSTRALIA • THE SENATE

SENATOR BRETT MASON

Senator for Queensland

7 November, 2001

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

Dear Mr Smith

Your most recent papers dated 20 October and a selection of correspondence arrived at my electorate office by registered mail on Friday 26 October, 2001.

Whilst I appreciate the time and effort you are making to keep me advised of your case, it is accepted protocol that Senators represent constituents in their own State of origin. With this mind, I wonder if you have continued to also keep in touch with those from Victoria who represent their State at a Federal level.

As advised in my first contact with you, the Minister for Communications, Information Technology and the Arts had undertaken to investigate your concerns and respond to you on behalf of the Coalition.

Yours sincerely

Brett Mason
Senator for Queensland

282

2166 Logan Road
Upper Mount Gravatt QLD 4122
Telephone: 07 3422 1990
Facsimile: 07 3422 1991

Email: senator.mason@aph.gov.au

Parliament House
CANBERRA ACT 2600
Telephone: 02 6277 3756
Facsimile: 02 6277 5725

Alan Smith
Seal Cove Guest House
RMB 4409
Cape Bridgewater
Portland, 3305
Phone: 03 55 267 170

19th February 2002

Mr David Hawker MP
Parliament House
Canberra, ACT 2600

Dear Mr Hawker,

Ms Sue Owens, Barrister, received the following information from the Telecommunications Industry Ombudsman's office earlier this year. This information confirms the role played by the TIO's office in covering up criminal behaviour by Telstra, and others, during my arbitration. This information supports the information in Sandra Wolfe's letter to your office on 18th February 2002.

This fresh evidence confirms the following:

1) Ferrier Hodgson Corporate Advisory (FHCA), Melbourne, as principal advisors to a legal process, knowingly withheld evidence so that this material could not be arbitrated on.
2) Mr A. G. Hodgson, Chairman of FHCA, wrote to the Chairman of the Australian Securities Commission on 17th March 1998, denying his company's involvement in this matter, even though FHCA had previously written to the TIO, on 15th November 1995, ***acknowledging*** that ***not ALL*** my claim documents had been arbitrated on.
3) A number of the claim documents that had ***not*** been addressed during my arbitration were then covertly supplied, outside the arbitration process, to the Australian Communication Authority (AUSTEL) for their assessment, on 16th October 1995.
4) FHCA collaborated with the arbitrator, Dr Gordon Hughes, so that the ***signature of an agent from an international company*** appeared as signing off on a draft report that was prepared by an ***Australian*** company.
5) Dr Hughes then knowingly submitted this report into arbitration for my written response, even though he was aware that I was responding to a contaminated document.

After Senator Richard Alston had viewed some suspect arbitration documents at our meeting with him in his Canberra office, I believe he made a statement to the effect that, if he was back practicing Law, he 'would welcome the chance of winning' my case 'in the Supreme Court of Victoria' as it appeared that 'fraud had taken place'. Perhaps you might remind Senator Alston of this statement and suggest that he should now have a look at this latest evidence.

Would you prefer me to forward this fresh evidence to your office or to Senator Alston's office?

I await your earliest reply.

Sincerely,

Alan Smith
cc

283

DAVID HAWKER MP
FEDERAL MEMBER FOR WANNON

15 March 2002

Mr Alan Smith
Seal Cove Guest House
Cape Bridgewater
PORTLAND VIC 3305

Dear Alan

Thank you for your facsimile of 19 February 2002.

I have ensured the Minister for Communications and Information Technology is aware of your offer to provide fresh evidence.

Yours sincerely

DAVID HAWKER, MP
Federal Member for Wannon

Ref: 3-12/dh:mc

284

Electorate Office: 190 Gray Street, Hamilton, Vic. 3300
Telephone: (03) 5572 1100, Free Call 1800 810 481 Fax: (03) 5572 1141

DAVID HAWKER MP
FEDERAL MEMBER FOR WANNON

Wednesday 27th March 2002

Mr Alan Smith
Seal Cove Guest House
Cape Bridgewater
PORTLAND VIC 3305

Dear Alan,

Further to my correspondence of 15th March 2002.

I have received an interim response from the Minister for Communications, Information Technology and the Arts, Senator the Hon. Richard Alston MP, which informs me the matter is currently receiving attention and will be responded to shortly.

I will contact you as soon as I hear anything further.

Yours Sincerely,

David Hawker MP
Federal Member for Wannon

Ref: 27.03 Smith/dh-gm

285

Electorate Office: 190 Grey Street, Hamilton, Vic. 3300
Telephone: (03) 5572 1100, Free Call 1800 810 481 Fax: (03) 5572 1141

SENATOR THE HON RICHARD ALSTON
Minister for Communications, Information Technology and the Arts
Deputy Leader of the Government in the Senate

RECEIVED
17 JUL 2002
AH3D.....

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

12 JUL 2002

Dear Mr Hawker David.

Thank you for your further representations of 15 March, 14 May and 7 June 2002 on behalf of Mr Alan Smith of Seal Cove Guest House, Cape Bridgewater, concerning matters arising from his arbitration in 1995. I apologise for the long delay in responding.

As the material provided by Mr Smith relates to the arbitration undertaken by Dr Gordon Hughes of Hunt and Hunt, under the administration of the Telecommunications Industry Ombudsman (TIO), I have referred your letters to the TIO for advice.

I will write to you again when that advice has been received.

Yours sincerely

Richard Alston

RICHARD ALSTON
Minister for Communications,
Information Technology and the Arts

286

Department of
Communications
Information Technology
and the Arts

our reference

Mr Alan Smith
Seal Cove Guest House
RMB 4409 Cape Bridgewater
PORTLAND VIC 3305

Dear Mr Smith

I refer to your recent letters to me of 8, 10 and 11 July 2002 concerning matters arising from your arbitration.

As I indicated in my letter to you of 3 July 2002, the Department of Communications, Information Technology and the Arts is not in a position to assess the matters you have raised or to conduct an independent review.

I would, therefore, ask that you refrain from providing any further material until the Telecommunications Industry Ombudsman has provided advice on the material you have supplied to date.

Yours sincerely

Colin Lyons
General Manager
Telecommunications Competition and Consumer

17 July 2002

287

GPO Box 2154 Canberra ACT 2601 Australia • telephone 02 6271 1000 • facsimile 02 6271 1901
email dcita.mail@dcita.gov.au • website http://www.dcita.gov.au

OFFICE OF THE MINISTER FOR COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS
Senator the Hon Richard Alston

14 OCT 2002

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

Dear Mr Hawker

Thank you for your representations of 23 September 2002 on behalf of Mr Alan Smith concerning Telstra.

The issues raised in your letter are receiving attention and the Minister will respond to you shortly.

Yours sincerely

MICHAEL BREALEY
Liaison Officer

288

Parliament House, Canberra ACT 2600 • Telephone (02) 6277 7480 • Facsimile (02) 6273 4154

** COMPLAINT ID ** 1286794

COMPLAINT DATE : 24/09/2002
STATUS : Closed/Resolved (Closed on : 28/10/2002)
URRENT OWNER : [redacted]
SC Level : FLM

file. TCW
Contact : LEWIS, DARREN, Bus
Channel : Telephone

Action Code : Close Complaint Resolved Action Date 25/09/2002
Created By : [redacted] Create Date 25/09/2002
File Exist ?
Description : Customer advised fault fixed within CSG and Politician advised.

Contact : LEWIS, DARREN, Bus
Channel : Telephone
Problem : Faults/Problems/Service Usage
Cause : IS Service Operations\Not Fixed Promptly\N/A
Cause Comment : fault fixed within CSG timeframe
Responsible : TELSTRA_COUNTRY_WIDE\TCW\NA\TCW_NATIONAL

Action Code : Reopen - Customer Request Action Date 16/10/2002
Created By : [redacted] Create Date 16/10/2002
File Exist ?
Description : Customer has contacted MP again re service to his premises.States that he is losing business as he is not receiving calls on mesagebank or *10#. Customer is aware previous owner of business a lso had problems with service. Cusotmer said that he was told by Telstra that there was a problem in his exchange.

Action Code : Transfer Action Date 16/10/2002
Created By : [redacted] Create Date 16/10/2002
File Exist ?
Description : Automatic Transfer Generated by Reopen action
Transfer To : [redacted]

Action Code : Accept Ownership Action Date 16/10/2002
Created By : [redacted] Create Date 16/10/2002
File Exist ?
Description : Accept automatic Transfer generated by Reopen action

Telstra Confidential
Printed by: [redacted]: Read & Report
Date Printed:10 FEB 2003

289

I00264

** COMPLAINT ID ** 1286794

COMPLAINT DATE : 24/09/2002
STATUS : Closed/Resolved (Closed on : 28/10/2002)
URRENT OWNER : [redacted]
C Level : FLM

Action Code : Investigation Results
Created By : [redacted]
File Exist ?
Description : Having spoken with CRM [redacted] this appears to be a complex issue and as such will escalate to the CRM level. RG
Action Date 17/10/2002
Create Date 17/10/2002

Action Code : Escalation
Created By : [redacted]
File Exist ?
Description : HT,
Pls accept escalation due to the nature of this complaint. [redacted]
Action Date 17/10/2002
Create Date 17/10/2002

Es[redacted]te To : [redacted]
E[redacted]eason : Complex Issue

Action Code : Accept Ownership
Created By : [redacted]
File Exist ?
Description : Accept Ownership HT
Action Date 17/10/2002
Create Date 17/10/2002

Action Code : Investigation Results
Created By : [redacted]
File Exist ?
Description : Spoke with [redacted] at TCW who is going to foward me a copy of the letters: [redacted]
Action Date 17/10/2002
Create Date 17/10/2002

Action Code : Contact with Customer
Created By : [redacted]
File Exist ?
Description : TIO Level 1 Complaint. 02/101638-1.
The TIO have now raised a Level 1 complaint on behalf of Mr. & Mrs. Lewis. The TIO have specifically mentioned in their correspondence that the TIO have previously investigated a number of complaints raised by [redacted] [redacted] the previous account holder for this service, in which similar issues were raised.
[redacted] TIO Liaison. (03) 9634 [redacted]
Contact : Lewis, Darren, Mr
Channel : Letter
Action Date 18/10/2002
Create Date 18/10/2002

I00266

290

07/26

OFFICE OF THE MINISTER FOR COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS
Senator the Hon Richard Alston

RECEIVED
20 NOV 2002
ANSD

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

15 NOV 2002

Dear Mr Hawker

Thank you for your representations of 8 November 2002 on behalf of Mr Alan Smith concerning Telstra.

The issues raised in your letter are receiving attention and the Minister will respond to you shortly.

Yours sincerely

MICHAEL BREALEY
Liaison Officer

291

Parliament House, Canberra ACT 2600 • Telephone (02) 6277 7480 • Facsimile (02) 6273 4154

Alan Smith
Seal Cove Guest House
RMB 4409
Cape Bridgewater
Portland, 3305
Phone: 03 55 267 170
Fax: 03 55 267 265
Email: capesealcove@hotkey.net.au

16th December 2002

Mr John Ralph
5 Hill Street
Toorak 3142

Dear Mr Ralph,

Please find attached the following:

1. Letter dated 8th December 2002, to David Hawker MP
2. Letter dated 14th December 2002, to David Hawker MP
3. Video titled *"Phone Wiring Details at Cape Bridgewater Holiday Camp, December 2002"*
4. CDR titled *"Ring for Justice"*

I am advised that you have expressed the opinion that the members of the Casualties of Telstra (COT) group who appeared on the Channel Nine Sunday Program recently should be sued for the derogatory remarks they made regarding the Telstra Corporation. Before you do decide to sue us, or make further similar remarks about the members of COT, perhaps you might look at the attached items.

I understand your anger, as a board member of Telstra, but I suggest you seek out the truth of the matter before you make any more unfounded allegations.

Under certain conditions, I am willing to provide you with evidence, from Telstra, the TIO and the Regulator, which clearly outline the true facts of the various COT matters, and the efforts Telstra and others have gone to conceal the truth from the Government and, in my own case, the arbitrator.

Sincerely,

Alan Smith
Copy to
Alan Bowles, Primary Force, Level 9, 432 St Kilda Rd, Melbourne, 3004.

292

Telstra

20 December 2002

Office of the Company Secretary

Level 41
242 Exhibition Street
MELBOURNE VIC 3000
Australia

Postal Address:
Locked Bag 4990
MELBOURNE VIC 8100

Telephone (03) 9634 6400
Facsimile (03) 9632 3215

Mr Alan Smith
Seal Cove Guest House
RMB 4409
Cape Bridgewater
Portland Vic 3305

Dear Mr Smith

I refer to your letter dated 16th December to Telstra's Deputy Chairman, John Ralph. Mr Ralph has asked me to review the material enclosed with your letter and respond on his behalf. I expect to be in a position to do so in January 2003.

Yours sincerely

Douglas Gration
Company Secretary

293

Telstra Corporation Limit
ABN 33 051 775 556

Cape Bridgewater Coastal Camp
RMB 4408 Cape Bridgewater
Portland, 3305
Phone: 03 55 267 267

19th January 2003

David Hawker MP
Federal Member for Wannon
190 Gray Street
Hamilton 3300

Dear Mr Hawker,

The following details relate to problems my wife and I have experienced with our Telstra phone services, after we purchased the Cape Bridgewater Holiday Camp, now re-named as the Cape Bridgewater Coastal Camp, in December 2001. We have dated the below events of our complaints as correct as we possible could from our hand written notes taken at the time. Out note book records of these complaints are available for your perusal if so required.

December 2001
Although we were not aware of the significance of the incidents at the time, and therefore didn't actually document them, we clearly remember, over the first twelve months:

1. Often answering the phone to find no-one at the other end;
2. Receiving phone calls which registered on our answering machine, but left no message recorded;
3. Finding no calls recorded when checking 'Star-ten-hash' to see who had called and not left a message;
4. Finding a recording of messages related to calls made to our number on earlier days when checking 'Star-ten-hash' (even when we had checked on those particular earlier days);
5. During and leading up to November 2002 in particular, we were continually frustrated by clients, schools, friends and family members repeatedly telling us we were not answering their calls and insinuating that no-one was at the camp, when at least one of us was in attendance at all times.

For a long time we were reluctant to complain to Telstra because we were aware of the problems experienced by the previous owners, Alan and Cathy, when they tried to get Telstra to fix the phone and fax problems they had experienced. Before we purchased the business, Alan assured us that Telstra had now fixed all these problems. When we first began complaining to Alan and Cathy, Alan was reluctant to discuss his experiences with Telstra because he was concerned that we would think he was paranoid. He did explain however that he had had enormous problems with ex-Telstra employees living in Portland and therefore some people already thought him 'strange'.

Although Jenny and I were sure we were not imagining the phone problems we now found ourselves experiencing, we tried to put them out of our minds as we worked to build up our business.

was when I told him that Tony Watson had blamed the 'dropout faults' as a problem in the AAPT exchange.

25th January 2003
While my wife Jenny was talking on our private line when the same type of 'dropout fault' occurred on this service also. When we rang the number back to ask what had happened they commented in words to the affect that a cracking sound was first heard with words coming in and then fading with the line finally disconnecting.

I decide approximately one hour latter after this incident to ring AAPT and find out what their thoughts were in regards to this problem now appearing on our private line. When I rang Tanya from AAPT fault centre and quoted what Tony Watson had stated in regards to this fault being an AAPT exchange problem she stated quite the opposite. Tanya made it very clear that had the fault been caused via their exchange it would have been recorded as an on going fault in their system and as there was no record of this type of fault on record it was certainly a Telstra related problem. Tanya went further to state that it was a known Telstra problem within their older type of exchanges and was an exchange base fault being experienced throughout rural Australia. (I received the AAPT fault number 686301)

3rd February 2003
Tony Watson rang to see how things were progressing and stated it appeared from his own investigations that some of the fax problems being experienced by us could be due to our call-wait facility. If this is the case then why is Telstra still promoting this call-wait facility service?

I requested that Telstra should now provide me information in writing as to what they believe has caused all these phone and fax problems including written notes taken by Telstra employees who visited my business prior and after the re-wiring took place. Mr. Watson said bull-shit Telstra does not have to provide me this information.

4th to 10th February
I had a number of discussions with Tony Watson during this period regarding the intermittent fax problems with he alleged only affect less than 1% of my business. What Mr. Watson doesn't seem to understand is because Telstra has not provided any reason for these fax faults I am reluctant to use the fax service for promoting our business.

11th February 2003
The attached statutory declaration including the signed document by Casterton College coordinator and 14 of his students confirms when I removed the Telstra ring tone alarm bell which had previous been disconnected by Telstra November 2002, the actual technical components in bell was heavily corroded with the wiring falling apart. As quoted in my previous letter to David Hawker MP, dated19th January 2003 also copied to your office it is confirmed also that Telstra attributed some of the phone faults experienced by us was due to this faulty tone ringer alarm bell. This bell has since been placed in a plastic bag for observation purposes.

17th February
Mr. Lee Cooper rang to discuss with us the ramifications of had he not persisted in trying to ring us in November 2002 (before the re-wiring fixed this problem) we would have lost the now confirmed four camps he booked for the year of 2003. It was Telstra who finally connected Mr. Cooper in November 2002 after he became most irate as to why he could not contact our venue and demanded Telstra fault centre connect him while he waited.

We have estimated that these four confirmed bookings alone will gross us approximately $16,000.00 this year. We have secured at least a further 80% of returned bookings from other groups who have stayed with us in 2002 for a their future camp 2003.

Some time around July last year (2002), a number of clients (who actually managed to reach us on the phone) again complained that we never seemed to answer their previous calls. These remarks created enormous stress for me: by this stage I knew Alan had had a nervous breakdown including a stay in hospital as a result of the problems he had experienced with the phones, when he owned the camp, and I began to suspect that he might have sold the property to us without properly warning us that the faults still existed. I was, though, really reluctant to accuse him of this. When I did raise the issue with him, he seemed reluctant to discuss these issues, because Telstra had assured him they had definitely fixed the problems at the exchange.

At this stage, we felt we could only discuss our worries with Alan and Cathy because we certainly didn't want to be talked about in town, as Alan and Cathy apparently had been talked about. Alan suggested we keep some sort of record of our concerns, perhaps in the form of a diary list. At the time, we thought he was being a bit 'over the top'!

It wasn't really until last August that it finally hit us that we were definitely losing numerous calls, and we really needed to do something about it. It was at this point that we began to take notes, as Alan had suggested. These records immediately verified that there were a number of different faults occurring, affecting both incoming and outgoing calls, as well as outgoing faxes.

LOST CALLS
People were continually telling us we were never at the camp when they rang, yet we knew at least one of us was around all the time, as our house adjoins the office. During the winter months of July to October, Portland gets quite windy and cold and so we spent most of our time in the office, planning advertising trips, and this is where we were at the very times that many of our clients complained about our phones not being answered. There is just no way we could have missed so many calls.

LOST FAXES
This was another problem but a difficult one to follow up: how can you continually phone clients to ask if they had received a fax in the last couple of hours, without looking pushy or demanding? We did, of course, check with clients some days later to ask what they thought of our advertising literature and it was these normal follow-up calls which began to alert us to faxes that had never arrived at their intended destinations.

STAR-TEN-HASH (*10#)
As previously noted, sometimes when we used this code we actually retrieved phone numbers from days before, which had not registered earlier. This is of little use to a business such as ours, where clients are either looking for accommodation for that same night, or wanting to confirm for the following night. We have lost numerous bookings because of this fault alone; a fault that Telstra has acknowledged is a problem in our area. I am confident that it was not uncommon on some days for this fault to occur up at least five times a day.

The following dated summary of our records highlights the many problems we were trying to deal with.

21st September
Even more callers than usual complained of phone problems when they first tried to ring us.

22nd September
More complaints from people who had experienced problems when trying to phone us. On top of all these complaints, a number of customers told us (when they finally managed to get through to us on the phone) that they had first reached a recorded message stating that our phone was no longer connected. We registered this fault with Telstra and were provided with a special fault number (S11391550-7) for this particular complaint.

At this stage we began to keep more detailed records of the phone and fax problems, which were now really starting to get both of us down. As well, we discussed the situation again with Alan and Cathy, to see if they could suggest some way we could get Telstra to fix the faults.

Although we were new to this type of business, we were still aware that the tourist, school and social club market is a cut-throat one and, as the faults continued, we therefore became more and more distressed, partly because of our growing belief that Alan had deliberately not warned us that the phone problems still existed when we purchased the business, and partly because of the business we knew we were losing because of the phone faults. It was evident that, from the start, these lost calls had definitely affected the normal pattern of bookings that we could have reasonably expected.

23rd September
Again we received complaints from customers who had reached the 'not connected' recorded message. When we phoned Telstra again we were given another fault number (S111408836-2).

We had also been experiencing other intermittent problems, for instance, when we picked up the receiver to dial out we could sometimes hear another caller talking on the line as clear as clear can be. This even happened on one particular occasion, when we picked up the receiver to phone Lorraine Rivette from Telstra. Ms Rivette had previously rung us to discuss the fault we had reported on 22nd September and, when we finally managed to reach her, she assured us the fault would be rectified by 25th or 26th September. The problems were still occurring on twenty-fifth however, and Ms Rivette rang again to say that they would now not be fixed just yet.

By this stage, all Jenny and I could do was worry. We had first been told the fault would be fixed in three days and now we were told it could take eight days. I began to look for unnecessary projects to do around the camp spending time and money that really didn't need to be spent, just to take my mind off the fact that we were losing business through no fault of our own, and there seemed to be nothing we could do about it.

Jenny spoke to a Telstra fault operator from Wollongong, NSW, who said that her department could not provide any information about what was happening in relation to the camp. She reassured Jenny however by saying that she would personally contact someone from Newcastle, NSW, who would then ring us to help us get the ongoing faults fixed.

27th September
At about 8pm, Ian from COG (Telstra) rang and informed us that an EMG was causing the problem. He also noted that it was the second report he had received regarding this particular fault and said he would advise Telstra to send someone to fix the fault, which appeared to be at the local exchange.

28th September
We received a phone call from Renea, another Telstra fault operator, who informed us that a Telstra representative had advised him that the fault was in the local exchange. He made it quite clear that his advice was that the local exchange could only handle a certain amount of traffic at any one time and that there was nothing much anyone could do about the problem. He also emphasised that the problem was not new to Cape Bridgewater and said it had still not been fixed. I was perhaps a bit abusive at this point, telling him that these ongoing faults were costing us business and that I was going to again contact you, as my local member of parliament, and Telstra's CEO, Ziggy Switkowski. Even after this, Renea was extremely nice, noting that he fully understood my frustration. I very much appreciate this man's honesty and commitment to trying to help people like me, who ring with complaints.

3rd October
We rang our business phone number (55 267 267) from our private phone line, at around 12.30 pm, and let it ring three times before hanging up. When we then tested the *10# process on the business line but there was no message registered. We repeated the process, this time letting the phone ring seven times before hanging up. This time the *10# process worked correctly. Following these tests, at about 2.40 pm, we rang Telstra fault centre but, instead of being connected normally, we were informed that they were experiencing their own problems so our complaint had to be put through manually. Eventually I spoke to an operator called Jodie who told me that there was a problem with the *10# system at a national level and that it was being dealt with on that basis. I asked for, and was given, another fault number (S111438102). Jodie confirmed that, in many cases, *10# messages were taking up to two days to be re-cycled back to the customer.

By now I had also spent quite some time with Alan Smith, asking him how I should approach you regarding these continuing phone and fax problems. Alan told me that both Telstra and the Telecommunication Ombudsman's Office had refused to investigate when he had experienced similar problems after his arbitration with Telstra. This was when I began to wonder if perhaps Alan hadn't been completely up-front with me regarding the phone problems when I purchased the business. In all, I spent almost a whole working day in discussion with Alan and preparing my first letter to you.

14th October
Again I phoned Telstra to complain about more *10# faults, particularly one instance where we did not get the customer's phone number (so we could return the call) until two days after the customer had rung us. This time Telstra put me through to a lady in Townsville who informed me that she could not detect any problems from her section and that, because of our persistence, we would be put in a queue. We were given yet another fault number (S11480890).

This same day we also received a call from a customer looking for accommodation. This customer explained that they had phoned on 28th August, 6th September, 9th October and 12th October. Each time the line registered as busy. If these four separate calls had registered into the local exchange, even with the *10# fault still occurring, we would have been able to ring the customer back, at least within a few days. As it was, there was NEVER any record of them ringing and we are talking here about FOUR separate incoming calls which were never recorded on this message system. Here is irrefutable evidence of calls being lost to my business. In fact, Telstra's own CCAS data for November 2002 shows 142 incoming calls lost to my business and it now seems that the telephone wiring and alarm bell in the camp office was part of the problem, before they were replaced early in December last year.

The following anecdote is a clear demonstration of one of the phone problems we have had to cope with:

My camp looks straight over a wire fence into Alan Smith's property. One day I noticed Alan heading towards his office and immediately phoned him, only to receive an engaged signal, even though he had only just closed the door, which I know is at least ten paces from his office. Shortly after this we checked with Alan who told me he had not received any calls in the last hour or so. Cathy, Alan's partner, showed me the notebook she keeps beside the phone to record all incoming calls and there was no call registered anywhere near the time I had phoned them.

25th October
Terry Cain from Hamilton Catering informed me he had tried to ring me earlier but could only hear strange clicking noises – the call didn't connect.

26th October
More *10# problems. Telstra's Sydney fault centre asked if my phone was working correctly! What a joke! At first the Sydney operator said she couldn't supply a fault number and it was only after I insisted strongly that she finally provided a number (S11539136).

26th October, 2.50 pm
Received a call from Victor, in Telstra's Newcastle fault centre, who informed me that he would 'rebuild' our software and this would mean that the phone service would be off air for five minutes or so. About fifteen minutes later he rang back to say that that the *10# problems had been caused by a slight 'earthing' problem on our system (only on our line), but that he didn't know how long the fault had been there.

5

(5)

Late October
Telstra's local technician Steven, arrived at the office door unannounced asking us if we were 55 267 267 we confirmed we were he advised us that he was working down at theTelstra kiosk location checking on some technical information. It was then that he informed us that his technical meter reading was not responding correctly and that the needle was vibrating which disallowed a correct reading.

He was at the kiosk site supposedly testing for faults associated with our previous registered phone problems. He entered the office looking at our phone system to find a reason for this malfunction. It was then that he informed us that the phone alarm tone ringer outside the office door could very well have been one of the reasons for our continued problems. He then went on to say that this type of alarm system was known to be a problem in moisture prone areas like Cape Bridgewater. The point was made very clear by Steven, that it supprised him that whoever installed this alarm bell did so facing the south west in direct line with the bay winds. It is commonly known that our wind and rain are most severe from this direction.

He made the comment that this type of alarm tone bell system had been a problem in the past on properties close to the ocean. It was then that he suggested we disconnect this alarm system from our phone lines as it was not working and could be one of the causes affecting our phone problems.

It was also around this time that this Telstra technician also commented that he was alarmed at the state of the wiring configuration in the kiosk area even to the point of suggesting that Telstra could not have installed this wiring and that it should be removed immediately. Apparently he found a numbers of wires not connecting to any specific outlet and appeared to be going nowhere.

Late October
Telstra informed us that they knew the *10# problem had been on our line for quite some time but couldn't say exactly how long.

Late October
John Matters from Telstra reported that he could not find any *10# faults on our line, but stated that he had experienced this fault himself. Tony, the metal collector, tried ringing us four times during the day, between 9.15 and 10.30 am and again between 2.00 and 3.30 pm. The phone rang out on each occasion and there was no message on our answering machine or on the *10# service, except for the last call.

Tony from Telstra informed us that we should complain to AAPT regarding problems with phone charges associated with lost faxes, as AAPT are now our long distance and mobile provider. He also said these were 'old recorded problems' which still had not been fixed.

Late October
Brian Adams, Camp Coordinator for Werrimul Primary School in Mildura, informed us that he had still not received the fax we had previously promised to send. Our fax journal clearly shows a fax going from our office to Werrimul Primary School – yet another fax sent but never received at the other end.

By this stage, Jenny and I were starting to become very annoyed and frustrated with our new business. We felt seriously let down by Alan in regard to these phone faults and began to believe he should have warned us, before we bought the business, that there were ongoing problems with the phone lines. Alan has now shown us documents which confirm that lost faxes were a major problem at the camp before Telstra disconnected his designated fax line.

30th October

Telstra attached CCAS monitoring equipment to our 55 267 267 service in an attempt to find the cause of the faults.

5th November

A caller advised us that he had attempted to ring and received an engaged signal. This should never have happen because not only do we have *10# connected, but we also have call waiting so we don't miss any calls. Even if we had somehow missed an occasional call, the *10# service should have been operating as our safety valve, allowing us to ring back.

Telstra now began to disconnect our phones if our payment was even one day late (rather than notifying us in case we had overlooked the payment, as was usual). We began to wonder if this was Telstra riding rough shod over us because we had begun to complain in the same way that Alan had, before they disconnected both his lines because of the billing complaints he lodged with them.

This same day we received a telephone call from the Portland Observer Newspaper, asking us for a comment regarding the Channel Nine Business Sunday Show which showed Alan and others with phone problems calling for a Royal Commission. I was rather upset that the Observer would ring at this point because, only three days before, they had reported on Alan's previous and continuing problems with Telstra. I told them flatly 'no'. When I purchased this business, all I wanted was a trouble-free run and I made it quite clear to the Observer that I did not want publicity and I did not want to be seen as paranoid (as I know Alan has been seen).

8th November

Another caller reported that they had reached a recorded message saying that my number was not connected. I rang Telstra's Tony Fielding at 9.20 am and was told he was not available but he would return my call. He had not done so by 2.00 pm and I began to worry that my faults were now being moved to 'level two' and we were getting the run-around.

I also spoke again with Terry Cain of Hamilton Catering who said that he would not ring us again until we got our phones working correctly because every time he rang he got a fax connection tone.

9th November

A caller phoned at 3.20 pm from 53343926 and reached the message: 'The number you are calling is not connected, check the number before dialling again'. He phoned twice again around lunch time (about 12.45 pm), from 55 235147, and reached the same message.

13th November
I spoke with Telstra's Tony Fielding at approximately 12.00 pm, regarding the *10# problem, particularly in connection with problems being experienced by Tirnboon Secondary College.

I picked up the phone at 1.11 pm and heard a deep breathing sound, but no dial tone.

Checked *10# at 20.48 pm and the message recorded the last incoming call from 747282692 at ?

26th November
A plumber who was working at the camp accidentally cut through the underground telephone cable from the kiosk to the office. Our calls were diverted to our mobile until 8 or 9 pm. Telstra inspected the damage and announced that the channel taking the phone extension to the office from the kiosk was some 200 mm too shallow and they therefore believed Telstra had not connected the extension. We were also advised that the wiring and junction box in the kiosk had not been installed correctly and there were some wires going nowhere, suggesting that they had been tampered with.

We were now extremely distressed. We didn't know who to believe, Telstra or Alan.

Cathy wrote to you at this point, complaining that Telstra had left an open hole in the ground and it was particularly dangerous because there were children running around.

27th November
Around 8.30 am, Joe Austin, from Seal by Seal Tours, phoned to say he had heard a recorded message three times the day before, each time saying that our number was not connected. Tony Fielding from Telstra seemed to be blaming us for these problems but I told him that Telstra had advised us, the day before, that the severed cable had been fixed. Mr Fielding rang again to find out if things were OK and to advise us that he also had problems getting through on our line. He blamed us for not transferring the phone back from our mobile to our land line. We explained that we had done this the night before but it seemed, from complaints we were receiving, that our number (55 267 267) had now been diverted to another service altogether. Mr Fielding then said that whoever wrongly transferred our number would be dealt with by Telstra and he himself would find out how the mistake occurred.

At 19.52 we received another call but the disconnected signal was going when I picked up the receiver. When I pressed *10# there was no recorded message to say who rang. Why?

Late November
The day that Alan Smith came over to the camp and confronted another local Telstra technician also called Steven was instigated because this Telstra technician had stated words to the affect that Telstra was not liable to pay for the rewiring and extra

(8)

time needed to rectify this problem. He was making allegations that the wiring was not the work of a trained Telstra employee, stating God knows who would have done anything around this place. I believe he was insinuating that Alan Smith or friends had wired the camp themselves. This was not the first time this suggestion was put to me by local tradespersons. It was then that I phoned Alan to be sure that what Telstra was stating was either right or wrong. It was then that Alan hit the roof so to speak and came straight away to question who had made these allegations.

My concern was that perhaps Alan had misled me into believing Telstra had wired the Kiosk. Alan provided his arbitration documents which I believe he has since provided to you that confirms Telstra did all the cabling and wiring including the installation of the phone alarm tone ringer.

Here I was thinking that Telstra according to Alan's previous discussions with me prior to purchasing the camp that Telstra had fixed all these faults during his arbitration. And here was Telstra stating they had never been near the kiosk wiring because of the poor workmanship. It was on this day that Tony Fielding of Telstra's Country Fault Centre phoned having heard of the confrontation with Alan, myself and this Telstra technician Steven, inquiring why I had not phoned him as he was my designated fault manager.

Mr. Fielding went on to say that Telstra's senior technician in the area was coming out to assure me that Telstra would fix the wiring configuration etc at their cost. On arriving at the camp this Telstra manager after inspecting the junction box and other faulty wiring stating words to the affect similar to those of both Steven's, that Telstra surely could not have installed wiring in this manner. He was adamant that this time Telstra would carry the costs of the work needed to fix the phone problems but in the future all cost associated with this type of work would be on our shoulders.

I am a little concerned that the cabling from the camp kiosk to our office is not within the normal specified guide lines of depth and that in the future that a problem does arrive we will have to bare this cost. Alan Smith informs me that the Telstra arbitration documents he provided to you which were signed under oath by Telstra confirmed they did the cabling to the office along with the rests of the wiring in the kiosk.

Alan has now admitted in a round about way that he was aware of the continuation of one of these type of phone faults where people thought the phoned dialed out giving the impression the camp was unattended when the phone never rang at the camp was apparent prior to us purchasing the business.

6th December
The office phone rang and disconnected very quickly, before the answering machine could record the incoming call. Again there wad no message on *10#.

7th December
I pressed *10# at approximately 9.10 am to find a message from 9309 7531, from the day before. This was a customer looking for accommodation but, when I contact them, they told me that they had gone elsewhere because we didn't return their call. Why did this call take a whole day to register on *10#?

9th December
Telstra completely rewired the kiosk, cutting away the loose wiring they said could very well have been causing all our problems including disconnecting and removing a junction. The new Telstra cabling box outside the kiosk was moved away from the electric power cable coming into the kiosk.

16th December
I tried to fax Julia Winter-Cooke, Hamilton College Camp coordinator, and couldn't get a fax through for the best part of the day, even though I left the fax on redial so that, if the college's fax line was engaged at first, my fax would have been sent eventually. On all these previous non-connected attempts to Ms Cooke, (documents can be provided confirming my accounts show I was charged a success fee for each non-connected fax). I described this problem to Tony Fielding from Telstra and he then attempted to send us a test fax but experienced problems himself. When the fax test sheet finally did come through, it confirmed a problem in that area as well. Mr Fielding then suggested we fax Telstra's fault centre in Tasmania on 1972081 – we tried numerous times to reach this number but we were never successful on any of these attempts. Tony Fielding them supplied another number to fax to and when we sent this new test fax on first attempt it supplied information (we have this copy) stating there was not enough time allowed in the transmission to correcty supply a reading.

I am sure you remember also, from my previous letter to you, that Telstra's Lorraine Rivette only received one fax from my office last September, when my fax journal shows two faxes going to her office in the space of ten minutes.

19th December
Tony Watson of Telstra began to make me feel as though I was causing the phone faults myself. At 4.00 pm I pressed the *10# code on my phone, only to find a call had come in from 9727 4405 at 10.39 am that morning. Why didn't my answering machine pick up this call?

In Summary
Telstra's CCAS data confirms 142 lost calls in November and fifty in December. The December records include eleven days before Telstra rewired the kiosk line and disconnected the alarm bell. Since then the number of complaints we have received from callers has reduced dramatically and, although we have continued to experience intermittent phone problems after 9th December 2002, and Telstra therefore needs to keep monitoring the line in the short term, the current problems are only minor in comparison.

Having previously investigated in the Cape Bridgewater and Portland region prior to purchasing the Cape Bridgewater Holiday Camp, rumors innuendoes etc about the phone problems experienced by Alan Smith was well known. It was our belief then that perhaps Alan's phone problems were detriment to the growth of the business as so was the reason we changed the name to Cape Bridgewater Coastal Camp. Unfortunately, due to the inherited phone problems with the local Telstra network including the wiring problems we are suffering similar ramifications to what Alan experienced due to these problems.

What is worrying us is that when schools, youth groups and other potential camp inquires connect to the internet for information about our new venue they are confronted with mountains of adverse publicity detailing past Telstra issues as though they are on going. This is extremely detrimental to the long-term growth of our business.

Should I also supply this information above to Telstra or Senator Alston's office or both perhaps you can advise me as soon as you have time?

Thank you for your assistance.

Sincerely,

D. Lewis
Jenny Lewis

Darren and Jenny Lewis.

294

(11)

** COMPLAINT ID ** 1314737

COMPLAINT DATE : 28/11/2002
STATUS : Open
URRENT OWNER : [redacted]
SC Level : RCG

Action Code : Referral Action Date 31/01/2003
Created By : [redacted] Create Date 31/01/2003
File Exist ?
Description : This is an automated message - requiring no immediate customer action. This customer has sought assistance from an external governing body such as the TIO, ACCC, Minister etc. [redacted] who is the Case Officer for this complaint, may request you to transfer the complaint to them for management.

Referred To : [redacted]
Follow up Date : 03/02/2003 Completion Date:

Action Code : Investigation Results Action Date 04/02/2003
Created By : [redacted] Create Date 04/02/2003
File Exist ?
Description : received call from [redacted] from RCMT Vic/Tas. He adv that his area has been investigating this issue however thatI hadn't referred the complaint. I've advised that the [redacted] of the FedGovt Liaison advised that FaSIG are investigating and will provide a report. Have emailed [redacted] a copy of the TIO corro for his files.

SUMMARY OF FINANCIAL OUTGOINGS

CRU Type : Issue Description Date Received 29/01/2003
STATUS : Open/ARR
Source : TIO TIO Type :Level 3
External Ref #: 02/101638-1 Due Date 26/02/2003
Case Officer : c734587 Date Create 31/01/2003
Description : TIO L3 complaint received.
Complaint is complex and has been on-going for a while.
Please refer to files for full details

100274

295

Telstra

31 January 2003

Office of the Company Secretary

Level 41
242 Exhibition Street
MELBOURNE VIC 3000
Australia

Postal Address:
Locked Bag 4990
MELBOURNE VIC 8100

Telephone (03) 9634 6400
Facsimile (03) 9632 3215

Mr Alan Smith
Seal Cove Guest House
RMB 4409
Cape Bridgewater
PORTLAND VIC 3305

Dear Mr Smith

I refer to your letter of 16 December 2002 to Telstra's Deputy Chairman, John Ralph, and my acknowledgement of 20 December 2002 on Mr Ralph's behalf. I refer also to your subsequent letters sent to Mr Ralph in December 2002 and January 2003.

In your letters you have raised various concerns about the arbitration of your claim against Telstra for compensation in relation to the provision of telephone services to the Cape Bridgewater Holiday Camp. In particular, you have raised concerns about Telstra's conduct during that arbitration and concerns that work recently undertaken by Telstra at the Cape Bridgewater Holiday Camp was undertaken to rectify faults on the telephone service which were present, but not disclosed, during the period of your claim.

In relation to your concerns about the work recently undertaken by Telstra at the Cape Bridgewater Holiday Camp, as you are aware the telephone service involved is provided to another Telstra customer. Telstra cannot disclose information about another customer's telephone service to you. However, I can advise you that Telstra has investigated your concerns and found that the work undertaken does not indicate that a fault was present on your service during the period of your claim.

Insofar as you raise matters which were canvassed during the arbitration, or which you have raised with the Telecommunication Industry Ombudsman since the arbitration, I do not propose to deal further with those matters. Telstra responded fully to your complaints in the course of the arbitration and, where appropriate, in responding to your subsequent correspondence and complaints to the TIO.

You asked Mr. Ralph to give to other Board members copies of the material you had sent him. You sent Mr Ralph cheques for $35.00 and $45.00 to cover the costs of copying. Mr Ralph informed other Board members at a recent Board meeting that you had written to him raising a number of concerns. The Board asked that I respond directly to you on Mr Ralph's behalf. Copies of your letters and attachments were not provided to the other Board members and your two cheques are returned with this letter.

296

Clearly there are very significant differences between your position and Telstra's on the matters you have raised. These matters have been the subject of arbitration and your subsequent complaints to the TIO, as well as representations to Government Ministers and Members of Parliament. In the circumstances, it is unlikely that further debate and correspondence between us concerning the conduct of these matters will alter our respective positions. However Telstra will of course consider fairly and appropriately any fresh evidence brought to our attention in support of your claims.

Yours sincerely

Douglas Gration
Company Secretary

Copy to: Mr John Ralph

296

[redacted]™

Telecommunications Industry Ombudsman

26 February 2003

Mr Alan Smith
Seal Cove Guest House
RMB 4409 Cape Bridgewater
PORTLAND 3305

John Pinnock
Ombudsman

Dear Mr Smith

I refer to your letters of 27 January and 3 February 2003.

Each letter raises yet again issues relating to your Arbitration which was concluded almost eight years ago. As I have said on numerous previous occasions, I do not propose to take any further action on a matter that was the subject of a final decision by the Arbitrator.

In your letter of 3 February you state that the TIO has a duty to speak to the new owners of Cape Bridgewater Holiday Camp who, you say, are blaming you for not disclosing to them ongoing problems with the telephone service. That is a matter between you and the new owners. The TIO will consider any complaint made by the current owners of the camp, provided it does not seek to canvass the same matters which you have raised relating to the Arbitration.

Yours sincerely

JOHN PINNOCK
OMBUDSMAN

plainant/1918

297

Harwood Andrews

LAWYERS

Our ref: 5PAM:8BK 2205941
Contact: Paul Mishura
Direct Line: 03 5226 8556
Direct Email: pmishura@harwoodandrews.com.au
Director: Jim Rutherford

Harwood Andrews Pty Ltd
ABN 98 076 868 034
70 Gheringhap Street, Geelong 3220
DX 22019 Geelong
PO Box 101 Geelong 3220

Telephone: (03) 5221 7166
Facsimile: (03) 5221 8282
email: geel@harwoodandrews.com.au

21 March 2003

Mr Darren Lewis
Cape Bridgewater Holiday Camp
RMB 4408 Blowhole Road
CAPE BRIDGEWATER 3088

DIRECTORS

Ken Andrews
Warrick Nelson
Patrick Sweeney
Rob Jeremiah
Neil Mathison
Linton Drever
Richard Anderson
Kim Henderson
Nicholas Carr
Dan Simmonds
Colin Twigg
Jim Rutherford
Rod Payne
Nicholaas Spanninga
Daniel Smedley
Philip Lambourne
Joanna Monahan
Allison Umbers

CONSULTANT LAWYER

Richard Annois AM

SENIOR LAWYERS

Jane Healey
Michele Bates
Stuart Monotti
Ross Brown
Kristina Dimasi

SPECIALIST ACCREDITATIONS

Wills & Estates
Environmental Planning & Local Government Law
Business Law
Tax Law
Family Law
Commercial Litigation
Criminal Law
Personal Injury Law
Property Law

Dear Mr Lewis,

Terms of Engagement - Investigation of possible action against Alan Smith, former owner of the Cape Bridgewater Holiday Camp, for misrepresentations in the sale of the camp in 2001.

This letter serves as confirmation that we have been instructed to act for you.

The services which we will provide are briefly described in the attached schedule (in duplicate). Please sign, date and return one of the schedules to us.

To comply with the requirements of the Legal Practice Act 1996 we provide you with the following information:

1. The lawyer who will primarily be responsible for your matter and that lawyer's telephone number is set out in the schedule. The conduct of your matter will be overseen by the director whose name and telephone number are also set out in the schedule.

2. You will be charged professional fees for the time spent by us on this matter in accordance with an hourly rate. The hourly rate of the lawyer and director responsible for your matter are set out in the schedule. These rates are exclusive of GST. These hourly rates may vary from time to time. If the rates increase by more than 10% in any year we will inform you. (From time to time it may be necessary for other lawyers in our office to work on your file at their appropriate hourly rate, which may be higher than the above rates).

3. In addition to our professional charges, you will also be responsible for payment of all expenses that we incur on your behalf which will include such things as search fees, court fees, stamp duty and Government charges. If it is necessary to engage barristers or other consultants, wherever possible we will obtain your prior approval.

298

4. We may request you to provide us with money which will be placed in trust on account of costs and expenses, which may include our fees, counsel's fees, search fees, etc.

5. Any estimate of the legal costs we are currently in a position to give is provided in the schedule. If there is no estimate given, this is because at this time it is not reasonably practicable to do so, and instead a range of the estimates of the total costs is set out in the schedule. The variables which may affect the calculation of the range of these costs include the complexity of the matter, the legal processes involved and the number of attendances on you and on other parties required to implement your instructions. Any other significant matters of which we are currently aware which may affect the calculation are outlined in the schedule.

6. You may terminate our services in writing at any time in which event we will render you an account for our services and any other expenses incurred on your behalf and including interest.

   We may cease acting for you at any time and for any reason, including your failure to accept our advice.

   If you fail to pay any of our accounts within the specified time, we may at our option cease working on your file. If you fail to provide adequate instructions we may also cease to act for you.

   If we should cease to act for you prior to the completion of your matter, including for the reasons set out above, we shall be entitled to be paid for all our professional costs and out of pocket expenses and interest incurred to the date on which our services cease to be provided to you.

   Until payment of those costs, expenses and interest we will retain any file or files which we hold on your behalf.

7. In litigious matters, the range of costs that may be incurred and which may be recovered from another party to the action if you are successful, and the range of costs which you may be ordered to pay if you are not successful are set out in the schedule.

8. We will bill you for the work done in accordance with the billing intervals set out in the schedule.

9. Our terms of trade are 14 days after the date of our bill and interest will be charged on any late payments at the rate fixed under section 2 of the Penalty Interest Rates Act 1983.

10. You are entitled to negotiate a costs agreement with Harwood Andrews. You are also entitled to receive a bill of costs from us. You may request an itemised bill from us within 30 days after receipt of any lump sum bill which we issue.

11. You may request a written progress report of your matter at any time.

12. If you have a complaint in relation to our provision of legal services please raise the matter with us. Harwood Andrews Lawyers is a member of Victorian Lawyers RPA Ltd of 470 Bourke Street, Melbourne to which you may direct a dispute or complaint in relation to costs or legal services.

298

13. In acting for any company, we will be accepting instructions from its directors and other authorised persons. Therefore, in retaining us to act for a company, you agree that it is on the basis that the directors of the company are personally responsible for payment of our accounts.

14. We will destroy your file after seven years from the conclusion of the matter, unless you make prior arrangement to collect it from us at that time.

15. Where we act for you in a number of matters you may choose to waive your right to obtain further costs agreements by completing the acknowledgement on the enclosed schedule and returning it to us.

16. Unless expressly stated to the contrary or unless specifically excluded by law, all fees and charges are exclusive of GST.

Yours faithfully,

HARWOOD ANDREWS LAWYERS

Encl.

298

Telstra

3 April 2003

Office of the Company Secretary

Level 41
242 Exhibition Street
MELBOURNE VIC 8100
Australia

Telephone 03 9634 6400
Facsimile 03 9632 3215

Mr Alan Smith
Seal Cove Guest House
RMB 4409
Cape Bridgewater
Portland VIC 3305

Dear Mr Smith

I refer to your letter to me of 3 February 2003, and your letters to Telstra's Deputy Chairman John Ralph of 16 December 2002, 31 December 2002, 1 January 2003 and 10 January 2003.

In your letters you make various allegations against Telstra, in particular that in the course of the arbitration to determine your claim for compensation, Telstra used 'tainted and corrupt' documents to deceive the Arbitrator so that your complaints were not fully investigated or taken into the account in the Arbitrator's award. The award was delivered in May 1995.

In my letter to you of 31 January 2003, I noted that Telstra had responded fully to your complaints during the arbitration and, where appropriate, to your further complaints and correspondence to the TIO and other parties after the arbitration was concluded. I advised you that Telstra did not propose to deal further with those matters, however Telstra would consider fairly and appropriately any fresh evidence in support of your claims.

Telstra has reviewed the material you have sent to the Deputy Chairman in recent months. The matters you raised concerning your arbitration are not new. Therefore I do not propose to deal with those matters, except to clarify some key facts.

Bell Canada Report

In 1993 Telstra engaged Bell Canada International (BCI) to investigate the overall performance of Telstra's network. Part of this assessment included test calls in early November 1993 from several exchanges to Cape Bridgewater. The results of this testing were included as an addendum to the BCI report. This report was included in material made available to the Arbitrator during your arbitration.

You have alleged that the results of the BCI report were fabricated. That is not the case.

It is the case that an incorrect date was recorded in the BCI report in relation to one set of test calls. The error was apparent because these test calls would have clashed with other test calls performed at about that time.

In late May 1995, after the Arbitrator had handed down his award, you received from Telstra under FOI copies of an email and a letter from Telstra to BCI in which Telstra raised this issue with BCI. Telstra's email shows that it was you who raised the apparent clash of dates with Telstra in August 1994. Enclosed is a copy of the reply from BCI which confirms that the date was incorrectly recorded in the report, but that this had no impact on the actual test results or on the overall assessment of the network by BCI (Attachment 1).

299

I note further that:

- you raised allegations about the veracity of the BCI report in your arbitration claim against Telstra;
- after the Arbitrator's award was delivered, you again raised allegations as to the veracity of the BCI report with the Arbitrator. The Arbitrator referred those matters to the Telecommunications Industry Ombudsman (TIO). Telstra responded to the TIO's queries about the BCI report and provided a copy of its letter to the TIO to you. You again raised this issue with Telstra in 1995 and 1997, at which time Telstra confirmed that it had responded to your complaints to the TIO and provided a copy of its response to you (Attachment 2).

TF200 Telephone

You allege that a report submitted by Telstra in the arbitration of testing conducted by Telstra on your faulty TF200 telephone was "fraudulently manufactured in an attempt to stop further investigations" into your complaints. You make this allegation on the basis that documents provided to you under FOI on 28 November 1995 confirm that "a second set of tests on the TF200 were carried out ... and came out with a totally different findings" to the report submitted by Telstra in the arbitration.

Telstra rejects these allegations.

During the course of the arbitration Telstra provided a report of its testing of your faulty TF200 telephone handset. The report concluded that a sticky substance was causing the lock-up problem.

The problem with the TF200 telephone apparently not releasing a call when the telephone was replaced was noted by Telstra's Peter Gamble in the course of a discussion with you. Mr Gamble reported the problem and arranged for a technician to test the telephone at your premises on 27 April 1994. The technician confirmed the problem was occurring during test calls. Calls were releasing normally when the faulty telephone was replaced with another from your premises and then with a new telephone.

The suspected faulty telephone was made by Exicom and was removed and sent to Telstra's Customer Equipment Division (CED) in Melbourne for further testing, as it appeared to be a fault during manufacture. The telephone was tested by Telstra Technologies on 10 May 1994 for manufacturing faults or component failure. The faulty operation was confirmed and the presence of a sticky residue inside the telephone was observed. On 12 May 1994, Ray Bell, Technical Liaison Manager for the CED, delivered the telephone to Telstra Research Laboratories for further investigation of the residues found inside the phone. This testing was carried out about 26 May 1994 and included gas chromatograph tests to identify the chemical composition of the residue. The TRL report, comprising about six pages of written comment and 16 pages of photographs, was sent to Telstra's CED on 2 June 1994. Ray Bell prepared a one page 'Conclusion' dated 20 June 1994. All these reports and the photographs were included in the final 29 page report which Telstra submitted to the Arbitrator.

Subsequently you sought access under FOI to the working notes of the TRL staff who prepared the report. Copies of a laboratory notebook entry, chemical analysis graphs and photographs of the telephone were provided to you in September 1995. These documents are in no way inconsistent with or contradictory of the report submitted to the Arbitrator. It is therefore quite incorrect to say that the TF200 test results conflicted or that all test results were not given to the Arbitrator.

Service Verification Testing (SVT)

In response to your complaints about the telephone service provided to your business, Telstra conducted a series of tests known as Service Verification Testing on your services. You have alleged that correspondence from AUSTEL to Telstra in 1994 shows that that testing was deficient and that the results of the testing therefore misled the Arbitrator.

Telstra rejects these allegations. I attach a copy of the SVT test results for your services (15 pages) and the covering letter dated 8 November 1994 (Attachment 3). The issues raised by Austel in relation to one part of the tests were fully addressed by Telstra. Your letter of 23 March 2003 to the Australian Federal Police, a copy of which you have provide to Telstra, notes that Austel subsequently wrote to the then Minister for Communications confirming that your services had met the Service Verification standards.

008 Billing Errors

You have also alleged there were billing errors on your 008 Freecall service that were not addressed during your arbitration. You allege these errors continued beyond the date of the arbitration award, until you asked Telstra to disconnect your Freecall service in late 1996. Your claim is based on a comparison of the calls itemised on your Freecall accounts with call data from the test equipment that Telstra connected to investigate the complaints about your services.

The billing matters were discussed before the Arbitrator during an oral hearing in October 1994. Telstra's own investigations at that time had confirmed all calls made to your Freecall number were billed correctly. The transcript of that part of the oral hearing, which you sent to Telstra, clearly shows Telstra was happy to reconcile any differences in the billing records directly with you or for the technical resource unit to undertake this task. Therefore your complaint that the Arbitrator did not consider billing matters during your arbitration is unfounded.

You also raised these issues directly with AUSTEL in 1994. Telstra advised AUSTEL that it would respond to these issues in the arbitration. You again complained directly to AUSTEL about these alleged billing errors in 1995, after the arbitration award had been delivered. Telstra provided a detailed response to your complaints to AUSTEL by way of a letter 16 October 1995. A copy of Telstra's letter is enclosed (Attachment 4).

That letter provides a detailed response to your complaints and lists a number of reasons for short duration Freecalls and also explains why the duration of calls recorded by some test equipment may differ from the billed duration.

Telstra also rejects your claim there are any systemic billing problems in the Freecall network or that your Freecall bills were not correct.

Conclusion

Telstra has responded to your complaints and allegations in the arbitration and in response to inquiries from AUSTEL and the T.I.O. I note that you have also made complaints to the police and representations to Government Ministers and Members of Parliament about these matters.

In my letter of 31 January 2003, I noted that there are clearly differences between your position and Telstra's on the matters you have raised. It is apparent that you do not accept Telstra's position. In these circumstances there appears to be little value in an ongoing debate between you and Telstra.

Clearly there are very significant differences between your position and Telstra's on the matters you have raised. These matters have been the subject of arbitration and your subsequent complaints to the TIO, as well as representations to Government Ministers and Members of Parliament. In the circumstances, it is unlikely that further debate and correspondence between us concerning the conduct of these matters will alter our respective positions. However Telstra will of course consider fairly and appropriately any fresh evidence brought to our attention in support of your claims.

Yours sincerely

Douglas Gration
Company Secretary

Copy to: Mr John Ralph

299

Stringer Clark
SOLICITORS

ABN 36 282 517 246

Principal
Richard Morrow BA (Hons) LLB*

Senior Associate
Tony Brown B.Com LLB

Associates
Paul Drew BA LLB
Sam McGee BA LLB
John Cramp BA LLB
Jacinta Johnson B Bus LLB
Charles Williams DDA LLB
Ann Butler LLB (Hons) BA

10 Henty Street
Portland Victoria 3305
Phone (03) 5523 1288
Fax (03) 5523 5778
Ausdoc DX 30501 Portland

179 Koroit Street
Warrnambool Victoria 3280
Phone (03) 5562 5733
Fax (03) 5562 8817
Ausdoc DX 28017 Warrnambool

44 Brown Street
Hamilton Victoria 3300
Phone (03) 5571 2528
Fax (03) 5571 2531
Ausdoc DX 30013 Hamilton

165 Barkly Street
Ararat Victoria 3377
Phone (03) 5352 1866
Fax (03) 5352 1863
Ausdoc DX 30036 Ararat

13 Murray Street
Colac Victoria 3250
Phone (03) 5231 6955
Fax (03) 5231 6266

*Accredited Personal Injury Specialist

Our ref: SMc:JA NF
Your ref:
Reply to: Portland

15 April, 2003

Mr D Lewis
RMB 4408
PORTLAND VIC 3305

Dear Darren,

Re: Commercial Matter

Thank you for instructing Stringer Clark to act for you in connection with Commercial Matters.

Sam McGee is your personal solicitor in this case and will primarily perform the work on your file. However, from time to time you may also have contact with other legal practitioners from Stringer Clark.

Sam is an employee Solicitor of the firm and is assisted by Jackie Anderson and will keep you informed of the progress of your matter, however, if you have any queries or wish to discuss any aspect of your file, please do not hesitate to contact them.

You should note in this regard that under the Legal Practice Act 1996 you are entitled to written reports at reasonable intervals informing you of the progress of the matter. If at any time you feel dissatisfied with a lack of information, you should contact Matthew Zeunert, our Office Manager.

LEGAL COSTS:

Professional Fees -

Under the Legislation we are required to provide you with a "range" of estimates of likely legal costs. This varies enormously between cases. In some matters the professional fees may be only $500 - $1,500. In other matters the professional fees may be as high as $20,000 and in exceptional matters $30,000 or more. The sort of factors which will influence this are:

i. the type of claim;
ii. whether liability is accepted or contested;
iv. whether the matters can be negotiated directly or if it has to proceed to judgement;
v. the length of any proceedings;
vi. the potential of the claim and amount of compensation sought/recovered.

Disbursements -

www.compensationsolicitors.com.au

300

We have a strong commitment to our clients and understand that many are unable to contribute financially to the management of their file. For this reason we adopt the procedure of paying the disbursements on behalf of our client. On your file it is the following disbursements may be incurred :

Disbursements Type	Estimated Cost
Barristers Advice	$200 - $450
Barristers Appearance per day	$500 - $2 500
Costs to issue proceedings	$440- $500
Court Hearing fees per day	$165
Jury fees per day (if jury required)	$455
Fees for service of documents	$35 - $70

Total Legal Costs -

On the basis of these estimates, your total legal costs (that is, professional fees and disbursements) could range between $500 and $3,000 (and in extreme cases perhaps more).

We shall notify you of any cost or charge which will significantly increase the likely total legal costs as soon as we become aware of it.

Should you choose to revoke your instructions or transfer your file from Stringer Clark to another legal firm before completion, the full amount of professional fees and disbursements incurred by Stringer Clark will be required to be paid before the file is released.

Recovery of Costs from Other Party -

Costs are in the discretion of the court and a party has no right to costs unless and until the court awards them. If you are successful in the litigation it is possible that the court will make an order that requires the other party to pay some of your costs. These are known as party/party costs and for the most part are calculated according to a scale set by the Court.

If Other Party is Successful -

If you are unsuccessful in the litigation, you will probably be ordered to pay some of the other party's legal costs. The amount will be calculated according to a scale. Based on similar experience, you could be ordered to pay between $500 and $1,500 (and in extreme cases perhaps more). Again this may vary enormously depending on the nature and type of claim.

If you have any queries or concerns about costs please do not hesitate to contact us.

Goods and Services Tax

For the purposes of this letter "GST" means any consumption tax imposed by government, whether at point of sale or at some other specified occurrence, by whatever name, which operates during the period of our service relationship and includes (without limitation) a goods and services tax, a broad-based consumption or indirect tax and value-added tax.

Each amount, of whatever description, specified as payable by you in this letter ("the amount payable") is expressed net of GST. In addition to the amount payable you must also pay to us on demand any and all GST payable by us in respect to the amount payable.

DISPUTES/COMPLAINTS:

Whilst we trust there will be no cause for complaint in the conduct of your matter, should there be any problems we want to know about it. Please tell us. If you do not wish to talk to the person dealing with your file, contact our Office Manager, Mr Matthew Zeunert. We will endeavour to resolve any such conflict in a mutually acceptable manner.

In fulfilling our obligations under the Legal Practice Act 1996, we are required to provide you with the following information in relation to disputes/complaints. If we are unable to deal with the problem to your satisfaction internally, the following avenues are available to you.

In the event of any complaint or dispute in relation to our legal costs or services you may:

i. apply to the Taxing Master of the Supreme Court of Victoria for our costs to be assessed (generally you must apply within 2 months after the bill of costs was given or the costs were paid);
ii. request our Recognised Professional Association (Victorian Lawyers RPA Ltd) to resolve:

- any dispute in relation to legal costs less than $15 000 (generally you must make the request within 6 months after the legal costs were payable)
- any other genuine dispute arising out of the provision of our services (generally such a complaint must be made within 6 years after the event).

If the issue cannot be resolved in this way, the law provides other procedures including the referral of the matter to the Legal Ombudsman or to the Legal Profession Tribunal.

As required by the Legal Practice Act 1996, we advise that this firm is regulated by the Victorian Lawyers RPA Ltd. The address for this body is 470 Bourke Street, Melbourne.

OUR OFFICES:

As you will see from our letterhead, we have offices in Portland, Warrnambool, Hamilton, Ararat and Colac. If it is more convenient for you to see your solicitor in one of our other offices, we will be happy to arrange this for you. Our receptionists in each of our offices will be able to organise a suitable appointment time.

OTHER RELEVANT INFORMATION:

We will strive to ensure that your matter is dealt with to the highest possible legal standard, with the most favourable outcome, in the shortest possible time and with the most reasonable costs involved.

Whilst we will do all **we** can to resolve your matter as expeditiously as possible we ask that you appreciate that many of these delays will be beyond your, or our control.

Should you have any queries or concerns at any time during the conduct of your matter, please advise us. We want to know. It is important that there be full discussion of any issues which are causing you concern so that they can be dealt with to your satisfaction.

Finally, thank you for giving us the opportunity to work with you on this occasion.

Yours faithfully,
STRINGER CLARK

per: S MCGEE

300

COMMONWEALTH OMBUDSMAN

Complaints: 1300 362 072
Tel: (03) 9654 7355
Fax: (03) 9654 7949
www.ombudsman.gov.au
Level 10
2 Lonsdale Street
Melbourne VIC 3000
Australia

REF: 2003-1953856

14 August 2003

Mr Alan Smith
Seal Cove Guest House
RMB 4409
Cape Bridgewater
Portland VIC 3305

Dear Mr Smith

I am in receipt of your letters of 2 and 8 August 2003.

From my reading of the content of those letters, there is nothing to persuade me away from my earlier decision to not investigate these matters further. I have, however, taken note on your request on page 2 of your letter of 2 August that the "fax streaming and the blank fax page issues" be transferred to the Telecommunications Industry Ombudsman (TIO).

Therefore, I shall be formally writing to the TIO in that regard. In support of that transfer, I shall be providing the TIO with a copy of your submission of 30 June 2003 and your letters of 2, 11, 18 July and 2 August 2003 and my letters to you of 15 and 28 July 2003, as well as a copy of this letter.

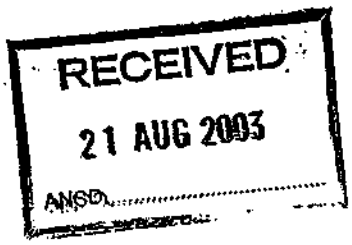
Yours sincerely

Doug Field
Assistant Ombudsman

301

S

OFFICE OF THE MINISTER FOR COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS
Senator the Hon Richard Alston



19 AUG 2003

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

Dear Mr Hawker

Thank you for your representations of 8 August 2003 on behalf of Mr Alan Smith concerning Telstra services.

The issues raised in your letter are receiving attention and the Minister will respond to you shortly.

Yours sincerely

Nikki Vajrabukka.

NIKKI VAJRABUKKA
Liaison Officer

302

Parliament House, Canberra ACT 2600 • Telephone (02) 6277 7480 • Facsimile (02) 6273 4154

Alan Smith, Seal Cove Guest House
RMB 4409, Cape Bridgewater, Portland, 3305
Phone: 03 55 267 170, Fax: 03 55 267 265
Email: capesealcove@hotkey.net.au

24th August 2003

David Hawker MP
Federal Member for Wannon
190 Gray Street
Hamilton 3000

008/1800 POST DIALLING DELAY, SHORT DURATION, BILLING and FAX RELATED FAULTS and PROBLEMS

Dear Mr Hawker,

The following documents are forwarded for your information:

Attachment 1: Letter, dated 14th August 2003, from Mr Douglas Field, Assistant Commonwealth Ombudsman.
This letter confirms that the complaints I have raised with his office regarding fax interception and blank fax pages are now being formally transferred to the TIO's office for investigation, under Section 6 (13) of the Commonwealth Ombudsman's Act, and that Mr Field will supply the TIO with a copy of my submission of 30th June 2003 to his office. A copy of this submission is attached (see attachment 2, below) so you can see how it demonstrates that:

A. Telstra has continued to selectively intercepted my faxes up to and including 24th December 2002;
B. Telstra perverted the course of justice during the COT arbitrations;
C. During the COT arbitrations, the COT arbitrator, Dr Hughes, advised Warwick Smith, TIO, that the COT arbitration procedure should be abandoned because it was not a credible process;
D. Warwick Smith, the administrator of the COT arbitrations, ignored Dr Hughes's advice and continued to run the COT arbitrations;
E. Telstra advised Mr Pinnock that they had knowingly withheld 40% of the FOI documents I asked for during my arbitration – until after the arbitrator had deliberated on my claim;
F. The regulator (the ACA) was aware that Telstra was still incorrectly charging for short duration 1800 calls as late as 1996 (this is confirmed by documents received under FOI in 2002);
G. Telstra and Mr Pinnock knew that the 008/1800 short duration billing fault was still apparent in the Telstra network as late as December 1996.

In the attached letter, Mr Field also refers to letters I sent to his office on 2nd, 11th and 18th July and 2nd August this year. On my behalf, a benefactor is currently providing a Queen's Counsel with copies of these four letters, together with a copy of my submission of 30th June 2003 (see paragraph 1, above), for a legal opinion on what laws, if any, have been broken. We already have an opinion from another qualified person who specialises in criminal law, who has confirmed that, in his opinion, my submission indicates a clear need for an investigation into the matters now being investigated by the TIO.

303

Attachment 2: Summary of events / submission to the Commonwealth Ombudsman's Office.

Earlier this year, in support of my complaints, and under instructions from Allen Bowles, ex-Commander of the Victoria Police Major Fraud Group, I prepared this summary of events related to my ongoing battle with Telstra. It was then provided to the Commonwealth Ombudsman's office on the 30th June 2003 as a formal submission (see paragraph 1, under the heading 'Attachment 1', above). When this submission is read in conjunction with the 008/1800 billing information I have at hand, the following points are confirmed:

a. Ferrier Hodgson Corporate Advisory (FHCA), the TIO appointed COT arbitration project managers, knowingly withheld from the TIO-appointed technical resource unit of DMR and Lanes, conclusive evidence which I had submitted during my arbitration. This evidence demonstrated how Telstra had misinformed AUSTEL concerning Telstra's knowledge of the 008/1800 post dialling delay and short duration network fault.

b. Transcripts of an oral hearing held on 11th October 1994 confirm that I provided FHCA, Dr Hughes (the arbitrator) and Telstra with numerous examples confirming post dialling delay and short duration 008/1800 billing faults and how they were affecting not only my business, but also other South West Region Telstra customers as well. The transcripts show that Dr Hughes told me, *"I believe you have provided enough information"*.

c. On 11th November 1994, Ted Benjamin, Telstra's COT arbitration liaison officer, advised AUSTEL that Telstra would address my 008/1800 billing faults during their defence of my arbitration claims. THIS DID NOT HAPPEN.

d. On 15th November 1995, John Rundell of FHCA advised John Pinnock, the TIO, that the billing claim documents I had submitted to arbitration WERE NEVER INVESTIGATED.

e. Both before the arbitration began and during the arbitration process, Bruce Matthews, an AUSTEL advisor, assisted me with the 008/1800 post dialling delay and short duration problems I was experiencing. On the 8th December 1994, Mr Matthews advised Dr Hughes that, if he did not address the 008/1800 billing issues during my arbitration, then AUSTEL would address this serious matter later, in the public interest. Correspondence from AUSTEL to both Telstra and Dr Hughes confirmed that AUSTEL believed that the 008/1800 faults I raised with them would definitely be affecting other Telstra customers as well as me.

f. On 2nd August 1996, eighteen months after my arbitration, FHCA advised Dr Hughes, in writing, that they had knowingly withheld from me all the arbitration procedural letters addressed to Dr Hughes from Telstra and AUSTEL, regarding the 008/1800 faults. This meant that none of my evidence regarding the post dialling delay and short duration faults would be investigated during in my arbitration.

g. Late in 1995, in Senator Alston's Parliamentary office, in front of yourself and other COT members, I provided the Senator with numerous documents confirming that neither Telstra nor Dr Hughes had addressed the 008/1800 post dialling and short duration faults which had been raised by AUSTEL and me during my arbitration. Senator Alston noted that, if he were back practising law, he would win my case in the Supreme Court of Victoria on the grounds of perverting the course of justice (or words to that effect).

h. On 14th January 1998, thirty-one months after my arbitration, and as a result of a barrage of reminder letters I had sent to Senator Alston, John Pinnock (the TIO), and yourself, Telstra visited my business to investigate my evidence confirming that the 008/1800 post dialling delay and short duration faults had continued to occur after my arbitration had been completed.

303

i. In 2002, under the TIO Privacy Policy Act, I received documents confirming that, after the visit referred to above (at point h), Telstra wrote to Mr Pinnock and attached file notes confirming that the 008/1800 billing faults I raised in my arbitration claim had indeed continued after my arbitration.

j. Under the TIO Privacy Policy Act, a number of the letters I had written to Mr Pinnock were returned to me with hand-written notes in the margins. These notes confirm the seriousness of my allegations that the 008/1800 procedural documents had not been provided to me during my arbitration. In particular, one hand-written note states: *"These are quite serious allegations. We need to respond to specific letters Smith says weren't forwarded or received and provide answers on each."*

k. There are two particularly alarming issues related to this 008/1800 post dialling delay and short duration faults:

- Other documents received under the TIO Privacy Policy Act confirm that AUSTEL had forwarded on to Mr Pinnock documents dated 3rd October 1995 (five months after my arbitration) confirming that Telstra had still not addressed the 008/1800 short duration faults in their defence of my claims and
- Documents copied on to Mr Pinnock from the regulator also confirm that, on 16th October 1994, Telstra chose to address the 008/1800 post dialling short duration call faults with AUSTEL, *OUTSIDE* the arbitration process, and *NOT* with the arbitrator *WITHIN* the arbitration process. This clandestine process meant that, since Telstra did not defend my 008/1800 claims, they had the advantage over me since:
  - I therefore had no legal right, under the COT arbitration rules, to challenge their (missing!) defence of my claims regarding the 008/1800 issues and,
  - The arbitrator did not have to make a written finding regarding these serious 008/1800 matters.

l. In their defence of 16th October 1995, Telstra even used one of their original arbitration defence witness statements dated 12th December 1994, sworn by Ross Anderson of Portland, in defence of my arbitration.

m. It is evident from the material attached here regarding the 008/1800 post dialling short duration fault, and other material already provided to Senator Alston, that, during Telstra's clandestine defence of these faults with the regulator (rather than the arbitrator) Telstra:

- Lied about their knowledge of this continuing fault which would have been affecting numerous Telstra customers and,
- Achieved their aim of avoiding the proper assessment of the 008/1800 issues under the rules of the legal arbitration.

I can show clearly that much of the information that has been selectively intercepted via the fax streaming process was 088/1800-billing-related evidence which I was providing. Many of the people I directed these faxes to often received pages which were blank except for a strange electronic-type numbering system on each page. In particular, I can prove that one set of documents I faxed from my office to AUSTEL, in relation to Telstra incorrectly charging me via their 008/1800 service, arrived at the AUSTEL office as blank pages except for this strange numbering system.

In his letter to you on 28th March 1996, Mr Pinnock wrote: *"Mr Smith's allegations of over-charging for his service formed part of the claim submitted to the Arbitration. Consequently, this matter was dealt with in his Arbitration"*: clearly this was not true.

303

I have already provided you with numerous documents which confirm that the TIO's office was investigating both the 008/1800 and fax matters during 1998, but they mischievously did not pass on their findings.

The latest FOI information I have received in 2002/3 from the ACA and under the TIO Privacy Policy Act confirms that Telstra and Mr Pinnock continued to deliberately misinform both your office and Senator Alston's office regarding the very issues the Commonwealth Ombudsman has now formally requested them to investigate.

Just imagine if Mr Pinnock had put the truth in his letter of 28th March 1996 (and in subsequent letters to you and Senator Alston) – and told you that neither Telstra nor the arbitration process had addressed the billing faults at all.

Just imagine if Mr Pinnock had informed you and Senator Alston (as well as me) that AUSTEL had sent him documents dated 3rd October 1995, confirming that Telstra had not addressed the 008 billing faults in their defence of my arbitration.

Just imagine if Mr Pinnock had informed you both that Ferrier Hodgson Corporate Advisory had advised him that they had ordered DMR & Lanes NOT to address my billing evidence because there was not enough time.

If you and Senator Alston had actually been told the truth, what might you have done then?

My submission to the Commonwealth Ombudsman's office is forwarded to you now as a possible Fast Track solution and to further support the need for Senator Alston's intervention into the matters I have raised with you both over the past few years. With this in mind, I would now be most grateful if you would please let Senator Alston know that the Commonwealth Ombudsman's office has finally passed the fax matters on to the TIO and advise him also of the misleading information that Mr Pinnock has previously given you both regarding the 008/1800 billing matters. And, most of all, please make the Senator aware that the same lies may well be used during his latest investigations. I am sure you both understand that I have every reason and justification for concern regarding the way in which the TIO may conduct his current investigation into matters that I first raised in my arbitration in 1994.

I await your earliest response: these fax matters have just about ruined what little faith I had left in Telstra and the Australian justice system.

Sincerely,

Alan Smith

303

COPY

Alan Smith, Seal Cove Guest House
RMB 4409, Cape Bridgewater
Portland, 3305
Phone: 03 55 267 170
Fax: 03 55 267 265
Email: capesealcove@hotkey.net.au

28th August 2003

Mr John Pinnock
Telecommunications Industry Ombudsman
P O Box 276
Collins St West
Melbourne 8007

Dear Mr Pinnock,

As you are aware, under Section 6 (13) of the Commonwealth Ombudsman Act, the Commonwealth Ombudsman's office (COO) has formally transferred all the issues I have raised in relation to fax interception, faxes received as blank pages and the privacy issues surrounding these matters, to you for investigation. The COO has advised me that, in support of my claims, they have also forwarded to you a copy of my submission to the COO on 30th June 2003. An Australia Post registration docket, signed as received by your office on 22nd August 2003, confirms that your office also received a copy of this submission from me.

During 2002, under the TIO Privacy Policy Act, I received a number of documents confirming that your predecessor, Warwick Smith, wrote to Telstra in February 1994 with regard to these same fax privacy issues, which I had originally raised with him the month before. Your office has not yet advised me whether or not you received a response from Telstra.

My accountant, Selwyn Cohen, who assisted me with my claim against Telstra, has acknowledged that, on at least one occasion, he received five blank fax pages from me. Even though blank fax pages transmit very quickly, both his fax journal printout and my Telstra bill showed that the transaction lasted for some minutes. Mr Cohen has confirmed that my business fax identification did not appear on any of the five blank pages he received, which all related to my claim against Telstra. I believe you are also already aware that, on two separate occasions in 1994/95, during my arbitration, when I phoned the arbitrator's secretary, Caroline, to ensure that documents I had faxed to the arbitrator would be given straight to him for his immediate attention, she found she had only received blank pages.

Under the TIO arbitration agreement, once my arbitration was deemed to be completed, Ferrier Hodgson Corporate Advisory (FHCA) and Telstra were instructed to return to me a copy of all the claim documents I submitted to the arbitrator. The documents which were returned by both Telstra and FHCA match the lists of documents they received from the arbitrator, but it is clear that forty-one separate faxes I sent to the arbitrator were not sent from the arbitrator to FHCA or Telstra. These missing faxes are supported by my submission. This proves that forty-one sets of claim documents, faxed from my office to the arbitrator, were never assessed by FHCA or defended by Telstra.

304

This proves that forty-one sets of claim documents, faxed from my office to the arbitrator, were never assessed by FHCA or defended by Telstra.

Even one of Telstra's defence documents, signed under oath, shows that their own investigations prove that, at least on one occasion, the arbitrator did not receive a number of documents faxed to him from my office. Why then was I charged for these five transactions as if they had been successful (refer submission)?

During my arbitration, AUSTEL advised that they had received blank pages which they believed had come from my office. To support this, they provided me with a copy of their fax journal printout and copies of the three pages they had received. These three pages had the same strange electronic numbering system on each page but no fax identification to show where the documents came from. AUSTEL's fax journal confirmed that they had come from my office and each page had taken one or two minutes to transmit. Computer experts I have since spoken to claim that the strange numbering markings come from a copying device similar to an electronic tape recorder. Documents received under FOI from the ACA confirm that Telstra acknowledges that they have used Fax Tape Recorders (refer submission).

I have attached Telstra FOI documents to my submission to the Commonwealth Ombudsman's office, confirming that Telstra documented the movements of both my staff and myself. The only way they could have acquired knowledge of our movements was from listening to my phone calls or intercepting my faxes during my arbitration. In one instance Telstra knew, weeks ahead of time, that I intended to travel to Melbourne. These are just some of the privacy issues which you are currently investigating.

I sincerely hope you will provide me with the results of your current investigation and thereby avoid yet another failure in your duty of care. As the following list shows, your office has failed me more than once in the past, in regard to my claims in relation to fax privacy:

1. **In 1994**, if I had been given a copy of any information you may have received from Telstra in response to your approach to them, I could then have passed this information on to the arbitrator;
2. **In 1995**, if I had been given a copy of Dr Hughes's letter to your predecessor on 12th May that year, in which he advised that that my just-completed arbitration had not been a credible process, I would have had enough evidence to proceed with an appeal against the arbitration award;
3. **In 1996**, if I had been given a copy of John Rundell's letter of 15th November 1995, I would have been able to provide it to Law Partners and it may well have convinced them to go ahead with a proposed pro-bono appeal against the arbitrator's award, which they decided against.
4. **In 1998**, during your own investigation (three years after John Rundell of FHCA had told you that my claim documents regarding fax privacy issues were never investigation during my arbitration), your office again failed to provide me with Telstra's response to your investigation.

Once you have read your copy of my submission to the Commonwealth Ombudsman on 30th June 2003, you will be able to come to only one conclusion: my TIO-administered arbitration was a grave miscarriage of justice and the fax matters now formally transferred to your office:

A. Were never investigated correctly by your office before my arbitration;

304

B. Were never investigated at all during my arbitration (refer FHCA admission in their letter of 15th November 1995);
C. Continued at least until 24th December 2002

I would like to remind you that Telstra FOI documents which I first requested under discovery during my arbitration but which I didn't receive until 28th November 1995, six months after my arbitration was deemed complete, revealed that:

- Telstra had tampered with evidence I freely gave during my arbitration so that the TF200 touchphone telephone, which had been connected to my fax line, and which they collected from my office, appeared to have wet and sticky been inside it when finally tested in Telstra's laboratories;
- Telstra advised the arbitrator that the testing took place on one date but the laboratory graphs show that it was actually tested on a different date.
- Telstra's arbitration defence document regarding the testing of my TF200 phone stated that the phone was not tested until sixteen days after it had been collected from my office and yet their laboratory working notes and graphs show that Telstra's laboratory staff found that beer poured into a TF200 dried within forty-eight hours (refer submission).

Telstra's fraudulently manufactured twenty-nine page TF200 report was allowed to remain in the arbitration process and was accepted as true evidence in support of Telstra's defence of the fax matters I had raised. This gave the report certain credibility when FHCA and the TIO-appointed technical resource team were assessing my claims. As you know, if documented evidence of a crime similar to fraudulently manufacturing a report for a legal process is provided to an Ombudsman or appointed commissioner during a legal proceeding, they have a duty of care to report the matter to the appropriate law enforcement agency. Although I provided all this information to you as soon as I received it, I remain seriously alarmed that you have allowed Telstra to continue to get away with perverting the course of justice by such unlawful tampering with evidence. Are we to assume that the TF200 phone currently connected to my fax machine (the fourth phone I have tried in this way) is also intoxicated, and that is why my faxes continue to be intercepted by Telstra?

This information is provided to assist with your current investigation.

Sincerely,

Alan Smith
Copy to Mr Doug Field, Assistant Ombudsman, Commonwealth Ombudsman's Office

Alan Smith, Seal Cove Guest House
RMB 4409, Cape Bridgewater, Portland, 3305
Phone: 03 55 267 170, Fax: 03 55 267 265
Email: capesealcove@hotkey.net.au

3rd September 2003

Mr Doug Field
Assistant Ombudsman
Commonwealth Ombudsman's Office
Level 10, 2 Lonsdale Street
Melbourne 3000

COPY

Dear Mr Field,

I am sending the attached copy of my recent letter to Senator Alston on the 31st August, in support of my 30th June submission to your office. I hope this latest information will help you understand the problems I have faced when dealing with Mr Pinnock and the TIO's office in the past.

When the TIO's office began their first investigations into the problems I was experiencing with my fax, during my settlement/arbitration process in 1994, I told Warwick Smith, who was then the TIO, I had not provided all the information I had in support of my claims but he still didn't ask to see the balance of my evidence. During the second TIO investigation into the same matters in 1997/8, I advised Wally Rothwell, then the Deputy TIO, that I still had not provided all the information I had because there were so many documents. Again the TIO's office did not ask to see the rest of my evidence. I believe Mr Rothwell would confirm this if he were asked as part of an investigation.

The same situation exists regarding his current investigation: I have a lot more information to support my claims regarding fax interception and missing faxes, in documents too numerous to attach to my submission to your office. Although these fax matters have now been formally transferred from your office to the TIO's office, I have not yet had any request from Mr Pinnock for this extra evidence. So the question remains, will he ever ask to see this information, or will he ignore it as his office has done in the past? How can he expect to find the truth if he doesn't examine all the evidence?

I have had many experiences which continue to shake any confidence I may once have had in the TIO's office but the following exceptionally devious incident in particular is probably the worst. On 28th November 1998 I received a number of FOI documents from Telstra – documents I had first asked for during my arbitration six months earlier, both under FOI and under the legal arbitration discovery process. This evidence finally confirmed my belief that Telstra had fraudulently manufactured their TF200 arbitration defence report. I was so thrilled with this evidence that, for the first and last time, I phoned Dr Hughes's residence at 8 pm that evening. When Mrs Hughes informed me that Dr Hughes was overseas I immediately realised that she might become worried if she knew who I really was and so, thinking quickly, I told her I was John Rundell from Ferrier Hodgson Corporate Advisory. I chose Mr Rundell's name because Dr Hughes would have known him in his capacity as arbitration manager of my case. I later explained all this to Mr Pinnock but he chose to ignore the details I provided and, instead, he later wrote to Mr Laurie James, President of the Institute of Arbitrators, wrongly asserting that I had rung Dr Hughes's residence at 2 am. Mr Pinnock also inferred that I had 'harassed' Mrs Hughes, which is totally untrue.

305

Telstra had fraudulently manufactured their TF200 arbitration defence report. I was so thrilled with this evidence that, for the first and last time, I phoned Dr Hughes's residence at 8 pm that evening. When Mrs Hughes informed me that Dr Hughes was overseas I immediately realised that she might become worried if she knew who I really was and so, thinking quickly, I told her I was John Rundell from Ferrier Hodgson Corporate Advisory. I chose Mr Rundell's name because Dr Hughes had known him in his capacity as arbitration manager of my case. I later explained all this to Mr Pinnock but he chose to ignore the details I provided and, instead, he later wrote to Mr Laurie James, President of the Institute of Arbitrators, wrongly asserting that I had rung Dr Hughes's residence at 2 am. Mr Pinnock also inferred that I had 'harassed' Mrs Hughes, which is totally untrue.

The evidence I received on 28th November 1998 included copies of Telstra's laboratory graphs and working notes regarding tests carried out on my TF200 telephone. Officers from the Major Fraud Group of the Victorian Police, who have seen the evidence I received that day, have said that Telstra's first report to the arbitrator actually perverted the course of justice because these working notes show a quite different result to that included in Telstra's official TF200 arbitration defence report. For instance, some of the working notes I received on 28th November 1998, which are dated **24th to 26th May 1994** clearly refute Telstra's defence report when it states that a 'wet and sticky substance', identified as beer, was found in the TF200 after it had been collected from my office on 28th April 1994 and tested on **10th May 1994** and that it was this substance which had caused the lock-up problems I had experienced with this TF200 phone, which was connected to my fax line. In other words, Telstra's official arbitration report stated that tests were carried out on 10th May, but their working notes show that the tests were really carried out two weeks later. This was one of the facts that I excitedly rang Dr Hughes about on 28th November 1998 and which I then passed on to Mr Pinnock. This information alone is enough to show that Telstra's TF200 report was a fabrication, thereby proving that, in regard to the faults I experienced with my fax line, I had been right all along. What sort of individual would then take my excitement at this discovery and turn it into something seedy the way Mr Pinnock did when he wrote such lies to the President of the Institute of Arbitrators (and then sent a copy of his letter to the arbitrator as well)? Conclusive proof that Telstra had perverted the course of justice was clearly not enough for Mr Pinnock.

Since 1998 I have provided this evidence to the Board of the TIO, as well as Telstra, but they both seem too afraid of the consequences to re-open the matter for investigation. Why? When the evidence was presented to the Victorian Police Major Fraud Group they explained that they could not investigate because of a lack of funds. What plausible excuse can the Board of the TIO and Telstra provide for not investigating this important matter?

Some of the documents I have, which have not yet been examined or investigated by the TIO, include proof of a number of serious invasions of privacy that occurred during the Major Fraud Group investigation of my Telstra related matters. This evidence shows that:

- On at least one occasion, Telstra-related documents faxed from my office to Graham Schorer, the COT spokesperson, for his assessment before I passed them to the police, did not arrive at Graham's office. Comparison of our separate fax journals confirms this incident.
- One particular document, prepared by Graham Schorer for the Major Fraud Group but sent from a fax belonging to another COT member, was also intercepted by Telstra's fax stream service, even though the COT member in question had never subscribed to this service or agreed to having it connected to his fax line.

305

Mr Pinnock's failure to investigate the fax issues I raised during his investigation in 1997/8 is a serious matter, particularly because of my concerns about various faxes that never arrived at the arbitrator's office during my arbitration in 1994. I am sure Major Fraud Group personnel will remember that, on more than one occasion during their inquiry into my Telstra-related matters, faxes I had sent from my office to them never arrived at their intended destination. I now have a copy of a signed Telstra document, admitting that, at least once during my arbitration, documents I faxed to my arbitrator from my office never arrived – but the cost was still charged to my account by Telstra. Clearly Telstra ***has*** intercepted faxes during legal enquiries such as the COT arbitrations and the Major Fraud Group investigations.

As you can see, I have written to Senator Alston to remind him that the issues currently being formally transferred from your office to the TIO were first raised with his own office back in 1993. Clearly the Australian Government has so far not been able to call a halt to Telstra's selective eavesdropping on COT members. Since the Government seems unable to do anything and, going on past experience, Mr Pinnock is clearly unlikely to ask me for the further evidence I have, which would enable him to correctly investigate these fax matters, I would be most grateful if you could advise me on the correct protocol for me to follow to make sure that my extra evidence does formally reach Mr Pinnock, in time for him to use it in his current investigation.

I await your response regarding how my evidence can be officially presented to the TIO.

Sincerely,

Alan Smith

305

DAVID HAWKER MP
FEDERAL MEMBER FOR WANNON

12 September 2003

Mr Alan Smith
RMB 4409
PORTLAND VIC 3305

Dear Alan

I wish to acknowledge receipt of your letter dated 24 August 2003.

I can also assure you that this week while in Canberra I personally delivered the report and a copy of your covering letter to the Minister for Communications and Information Technology.

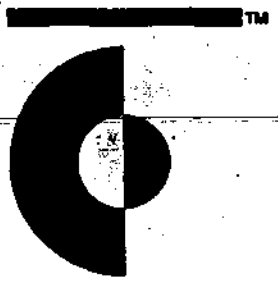
Yours sincerely

DAVID HAWKER, MP
Federal Member for Wannon

Ref: fh/dh:mc

306

Electorate Office: 190 Grey Street, Hamilton, Vic. 3300
Telephone: (03) 5572 1100, [redacted] Fax: (03) 5572 1141
Local Call 1300 131 692



Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

7 October 2003

Mr Alan Smith
Seal Cove Guest House
RMB 4409, Cape Bridgewater
PORTLAND 3305

Dear Mr Smith

I refer to your letter of 2 October 2003 to this Office and to various other letters addressed to the Commonwealth Ombudsman.

As you note, on 14 August 2003, the Commonwealth Ombudsman formally transferred to the TIO your complaints relating to 'fax screening and the blank fax pages...'.

In your letter of 2 October you claim that Telstra has had you under surveillance, including interception of your faxes, for a number of years. I have considered the information contained in that letter, as well as the more detailed information on this issue contained in your correspondence to the Commonwealth Ombudsman.

In my opinion, the information you have supplied amounts to no more than speculation and innuendo and I am not persuaded that there is credible evidence to warrant an investigation by the TIO.

Yours sincerely

JOHN PINNOCK
OMBUDSMAN

307A

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

I Peter Ross Hancock of 8 The Rise Diamond Creek in the State of Victoria do solemnly & sincerely declare

1. I have been actively employed in the telecommunications industry for the past 17 years and work & trained with such companies as The Melbourne & Metropolitan Board of Works, Honeywell LTD, AT&T Australia & Galvin Communications. For the past 3 years I have been a partner in Total Communications Solution Pty Ltd who specialize in Voice & Data installations & service. We are currently the authorized service center for Lucent Technologies (currently the second largest PABX vendor in Australia).

2. I have provided Telecommunications services to Golden Messengers since 1992.

3. I have recently undertaken extensive tests on Mr Schorers personal and normal day to day business fax machine located at the office of Golden Messenger Services, Telephone Number (03) 92877001 and on the accounts, photocopying fax machine No (03) 92860066.

4. Attached are the documents used in the testing and marked "A".

5. The following testing Procedure occurred on the 4th January 1999.

The following test procedures occurred whilst I was at the office of Golden Messengers, Queensberry Street, North Melbourne.

- I was asked to consider a fax Mr Schorer had received from Ann Garms in Brisbane concerning the first line of that fax transmission. My observation was that it included a date stamp that is commonly observed on faxes from most fax machines. However under the first fax transmission line was a second time and date stamp in different font and boldness.

- I then reviewed other faxes that had been received by Mr Schorer. Some faxes had two different time & date stamps and that others did not.

- Graham Schorer contacted Ann Garms and requested that she transmit test copies of her letter head which imprinted her facsimile footprint.

- The test copies show two time and date stampings from my experience a unique occurrence from any facsimile machine.

307B

- Ann Garms then sent a test fax to the Golden Messengers accounts fax machine (having a private number).
- This fax came printed with only one time and date stamp.
- Two further test faxes to the machine (subject of concern) included two time and date stamps.
- The in-dial number of the fax in question was changed to 92860020 and a test fax from Ann Garms revealed two time and date stamps.
- To clarify this problem I checked the instruction manual of the fax machine in question and further testing led to the conclusion that the fax machine concerned could not produce the second date & time stamp imprinted.
- Part of a 48 page document was received from Telstra at around 15:58 PM.
- This resulted in a request for another test facsimile to be sent from Ann Garms.
- This facsimiles did not have a second time & date stamp.(tending to establish that any interception on the line of facsimile transmissions sent or received had been removed)
- Further testing occurred between Ann Garms and Graham Schorer without the double printing of facsimile footprints.

6. On the 11th January 1999 I discussed;
   a) the discrepancies (that is the second footprint) in the fax headers raised by the tests referred to above and
   b) the differences in the fax headers attached (marked "B") relating to faxes between Ross Plowman and Ann Garms, the Commonwealth Ombudsman's Office to Graham Schorer, Graham Schorer and his solicitor Mr Hunt, Graham Schorer and his counsel Mr Cosgrave, Deacons Graham & James to Aitken Walker & Strachan (the Arbitrator & the Solicitor for Mr & Mrs Bova) and faxes from Alan Smith at Cape Bridge Water, with a team leader at Rank Xerox, Denis Galner (providers of Mr Schorer's facsimile equipment). This discussion included Graham Schorer, Mr Plowman's and Mrs Garms solicitor Ms Sue Owens, and myself.
   Denis Galner (a team leader at Rank Xerox) reviewed all the facsimile's referred to and agreed that the facsimiles were intercepted from the original senders and redirected by third parties, to the original intended recipient's.

7. I have also reviewed a large number of facsimiles from mid 1998 to the 4th January 1999 provided by Mr Schorer, which clearly include a second imprint on the facsimile foot print.

307B

18/01/99 1:25 SUE OWENS SOLICITOR 03 699 4847 P.02

8. It is my opinion from the evidence provided that a third party has been intercepting all of the faxes referred to above.

9. In my experience there is no other explanation for the discrepancies in the facsimile footprints in question.

10. I have read the report of Scandrett & Associates Pty Ltd and concur with it's contents.

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

Declared at Hamilton ***in the State of Victoria this*** 6th

Day of January ***One Thousand Nine Hundred & Ninety Nine***

Before

307B

OFFICE OF THE MINISTER FOR COMMUNICATIONS
INFORMATION TECHNOLOGY AND THE ARTS
THE HON DARYL WILLIAMS AM QC MP

COPY

RECEIVED
08 DEC 2003
ANSD

03 DEC 2003

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

Dear Mr Hawker

Thank you for your representations of 14 November 2003 on behalf of Mr Alan Smith concerning Telstra.

The issues raised in your letter are receiving attention and the Minister will respond to you shortly.

Yours sincerely

SIMONE BURFORD
Chief of Staff

307C

Parliament House, Canberra ACT 2600 • Telephone (02) 6277 7480 • Fax (02) 6273 4154

Telstra

11 December 2003

Office of the Company Secretary

Level 41
242 Exhibition Street
MELBOURNE VIC 3000
Australia

Postal Address:
Locked Bag 4990
MELBOURNE VIC 3001

Telephone (03) 9634 6400
Facsimile (03) 9632 3215

Mr Alan Smith
Seal Cove Guest House
RMB 4409
Cape Bridgewater
Portland Vic 3305

Dear Mr Smith

I refer to your letter of 17 November 2003 sent to members of the Telstra Board.

As I have stated in previous correspondence, there are clearly significant differences between your position and Telstra's on the matters you have raised. These matters have been the subject of arbitration and subsequent determinations of the TIO as well as representations to Government Ministers and Members of Parliament. It is apparent that you do not accept Telstra's position that your claims were fully and finally settled by an arbitrator's award in May 1995. In the circumstances, it is unlikely that further debate and correspondence between you and Telstra concerning the conduct of these matters will alter our respective positions.

Yours sincerely

Douglas Gration
Company Secretary

308

ATTORNEY-GENERAL
THE HON PHILIP RUDDOCK MP

03/236838
03/11980

12 JAN 2004

Mr Alan Smith
Seal Cove Guest House
RMB 4409, Cape Bridgewater
Portland VIC 3305

Dear Mr Smith

I refer to your letter of 13 November 2003 in relation to the arbitration of your dispute with Telstra.

You have asked that my office transfer documents you have previously provided the Prime Minister, the Hon John Howard MP, to the Australian Federal Police (the AFP) for investigation. You have indicated that the AFP response to earlier correspondence suggests that I must formally transfer matters to the AFP for investigation.

The AFP is an independent body with responsibility for the investigation of Commonwealth criminal offences. It would be inappropriate for me to direct the AFP to investigate a particular matter. The AFP is responsible for determining the allocation of resources in the investigation of offences. Should you hold concerns in relation to the investigation of those alleged offences, you may wish to contact the Commonwealth Ombudsman who has responsibility for inquiring into complaints in relation to the AFP.

As indicated in my letter of 10 November 2003, I am not in a position to comment on the actions of Telstra in this matter, nor am I able to comment on the conduct of the arbitration of your complaint by the Telecommunications Industry Ombudsman.

Yours sincerely

Philip Ruddock

309

Parliament House, Canberra ACT 2600 • Telephone (02) 6277 7300 • Fax (02) 6273 4102
www.law.gov.au/ag

OFFICE OF THE MINISTER FOR COMMUNICATIONS
INFORMATION TECHNOLOGY AND THE ARTS

THE HON DARYL WILLIAMS AM QC MP

RECEIVED
23 JAN 2004
AILSD

27 JAN 2004

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

Dear Mr Hawker

Thank you for your representations of 18 December 2003 on behalf of Mr Alan Smith concerning Telstra services.

The issues raised in your letter are receiving attention and the Minister will respond to you shortly.

Yours sincerely

SIMONE BURFORD
Chief of Staff

310

Parliament House, Canberra ACT 2600 • Telephone (02) 6277 7480 • Fax (02) 6273 4154

Australian Government

Attorney-General's Department

Information and
Security Law Division

03/11980
04/9

3 February 2004

Mr Alan Smith
Seal Cove Guest House
RMB 4409, Cape Bridgewater
PORTLAND VIC 3305

Dear Mr Smith

I refer to your letter of 2 December 2003 to the Attorney-General, the Hon Philip Ruddock MP, regarding alleged unlawful interception of telecommunications services. The Attorney-General has asked me to reply on his behalf.

As indicated in the Attorney-General's letter of 12 January 2004 the investigation of Commonwealth criminal offences, including unlawful interception, falls within the responsibilities of the Australia Federal Police (the AFP). In the event that you consider there has been an unlawful interception of your telecommunications services I would encourage you to draw this to the attention of the AFP.

I am not in a position to comment on the arbitration of your dispute with Telstra by the Telecommunications Industry Ombudsman.

Yours sincerely

Annette Willing
Acting Assistant Secretary
Security Law Branch

311

COPY

MINISTER FOR COMMUNICATIONS
INFORMATION TECHNOLOGY AND THE ARTS
THE HON DARYL WILLIAMS AM QC MP

RECEIVED
16 FEB 2004
ANSD

11 FEB 2004

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

Dear Mr David Hawker

Thank you for your representations of 14 November and 25 November 2003, on behalf of Mr Alan Smith of Cape Bridgewater, concerning his complaints against Telstra. I apologise for the delay in responding.

I note that the previous Minister wrote to you on 15 April 2003 advising that the Government is regrettably unable to assist Mr Smith any further on the issues that he continues to raise.

Nevertheless, as a matter of courtesy to you, I requested, through the Department of Communications, Information Technology and the Arts, further advice from Telstra and the Telecommunications Industry Ombudsman (TIO) on the issues raised in Mr Smith's letter.

Telstra advised the Department that it rejects Mr Smith's claims that his facsimile messages have been intercepted.

Telstra advised that it investigated Mr Smith's allegations that Telstra intercepted facsimiles sent by Mr Smith to the Australian Communications Authority (ACA) and the TIO on 24 December 2002 and 12 February 2003, respectively. Telstra reported that its billing records confirm that successful calls were made between Mr Smith's listed facsimile numbers and the listed facsimile numbers for the ACA and TIO. Telstra further advised that it is not aware of any facility in its network that could intercept facsimiles and insert different telecommunications numbers, as Mr Smith has claimed.

The TIO advised the Department that it wrote to Mr Smith on 7 October 2003, advising that the information provided by Mr Smith, both directly and through the Commonwealth Ombudsman, amounted to no more than speculation and innuendo. I understand that the TIO further advised Mr Smith that the material did not warrant any further investigation by the TIO.

I understand that the TIO considers that the matter is closed.

312

Parliament House, Canberra ACT 2600 • Telephone (02) 6277 7480 • Fax (02) 6273 4154

I would like to reiterate the previous Minister's advice that the Government is regrettably unable to assist Mr Smith any further on these issues.

Yours sincerely

Daryl Williams

DARYL WILLIAMS

DAVID HAWKER MP

FEDERAL MEMBER FOR WANNON

Thursday 19th February 2004.

Mr Alan Smith
Seal Cove Guest House
RMB 4409
CAPE BRIDGEWATER VIC. 3305.

Dear Mr Smith, Alan

I refer to my letter of 12th December 2003 regarding your ongoing complaints against Telstra.

Please find enclosed a reply to my representation from the Minister for Communications, The Hon. Daryl Williams.

At my request the Minister has again investigated your claims and he clearly supports the previous Minister's advice that the Government is regrettably unable to assist you any further with these issues.

I hope you can now consider this matter closed.

Yours sincerely

DAVID HAWKER, MP
Federal Member for Wannon

Ref: Smith/fb/dh:jm

3/3

Electorate Office: 190 Gray Street, Hamilton, Vic. 3300
Telephone: (03) 5572 1100, [redacted] Fax: (03) 5572 1141
Local Call 1300 131 692

25 March 2004

Telecommunications Industry Ombudsman

John Rohan
Chairman of the TIO Board

Mr Alan Smith
Seal Cove Guest House
RMB 4409
CAPE BRIDGEWATER
PORTLAND 3305

Dear Mr Smith

I refer to your letter of 8 November 2003 which the Ombudsman referred to the Board for its consideration.

The Board notes that the Arbitration of your Claim was completed with an Award in your favour by the Arbitrators as long ago as May 1995.

The Board is aware that the long history of the 'COT' Fast Track Arbitration Procedure (FTAP) including aspects of Telstra's conduct, as well as criticism by the 'COT' claimants, has been the subject of public comment by the Ombudsman in his role as Administrator and inquiry by a Standing Committee of the Senate.

Despite many criticisms of the procedures the Board also notes that at no time did you seek to exercise the right of appeal provided for by the procedure. Further, that the Senate Committee did not suggest that the Award should be re-opened.

In all the circumstances, the Board does not intend to take any action in the matter.

Yours sincerely

JOHN ROHAN
CHAIRMAN – TIO BOARD

314

SENATOR CHRIS SCHACHT

SHADOW MINISTER FOR COMMUNICATIONS

Suite S1 31, Parliament House, Canberra

Phone: (06) 277 3844 Fax: (06) 277 3121

FACSIMILE MESSAGE

TO: Senator Ron Boswell

FAX: 3246

FROM: Jenny Fox

DATE: 23 October 1997

PAGES (incl. cover sheet): 5

MESSAGE:

Further revised draft Terms of Reference follow for your consideration. Please feel free to call me or Chris if you would like us to explain any of the new amendments.

Jenny Fox

314

documents **unless and until the Senate Environment, Recreation, Communications and the Arts Legislation Committee so agrees in writing**

(c) the Senate Environment, Recreation, Communications and the Arts Legislation Committee reserves the right to amend the Schedules to this document.

[DELETE (c)—NOT NECESSARY AS ERCA COMMITTEE ALREADY HAS THE POWER TO AMEND AT ANY TIME AS IT SEES FIT]

The documents itemised in the List must include the documents itemised in the Excel files prepared by Telstra in relation to the Proceedings and any other relevant documents not previously provided to parties to the Proceedings ("**Parties**").

2. The List must be sorted into separate sections, so that all documents in relation to a particular party to the Proceedings ("**Party**") are contained in one section of the List.

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

4. The List must clearly distinguish between
   - documents which refer to service difficulties, problems and faults of Telstra's network, or of a Party's business telephone services; and
   - documents which do not so refer.

5. The List must clearly distinguish between
   - documents which were provided by Telstra to a Party before 26 September 1997
   - documents which were provided by Telstra to a Party on or after 26 September 1997; and
   - documents which have not been provided by Telstra to a Party.

6. The List must clearly distinguish between
   - documents which Telstra claims are privileged;
   - documents which Telstra claims are confidential; and
   - documents which Telstra does not claim are privileged or confidential.

   INSERT NEW PARA: Telstra must provide a statutory declaration made by a senior solicitor employed by Telstra, whose responsibilities include management of the CoT cases, declaring that Telstra has made all necessary inquiries of its employees and agents to establish that all documents falling within these Terms of Reference have now been identified in the List in the manner required by these Terms of Reference.

7. Where Telstra claims that a document is privileged or confidential, the description of that document in the List must include a statement of the basis on which Telstra claims that status for the document.

8. Telstra must provide a statutory declaration, *made* by a senior *solicitor employed by Telstra, whose responsibilities include management of the CoT cases*, declaring

314

that in respect of all documents described in the List which Telstra claims are privileged or confidential, Telstra believes in good faith after making reasonable inquiries *of its employees and agents* that these documents ought properly to be regarded as privileged or confidential, and the reasons for that status are accurately set out in the List.

9. Where a document was lost or destroyed before Telstra prepared its defence, the description of that document in the List must describe the manner in which the document was lost or destroyed.

10. Where the List is required to distinguish between documents in particular categories, the distinctions may be indicated in any manner which the Working Party considers appropriate.

Part 3: Other Sources of Information

1. The Working Party must investigate whether there are avenues not yet explored by Telstra to locate documents which are relevant to the claim of a Party under a Proceeding.

Part 4: Report to the Senate Committee

1. The Working Party must report to the Senate Committee regarding the matters with which it is charged under Parts 1 and 2 of these terms of reference. The Working Party is to report to the Senate Committee no later than Thursday, 27 November 1997.

2. The Working Party must include in its report to the Senate Committee an assessment of the processes used by Telstra in providing information to the Parties and, if the Working Party considers it appropriate, make recommendations as to additional or improved processes which should be adopted by Telstra.

3. The Working Party must include in its report to the Senate Committee recommendations as to whether:
   - any documents described in the List should be provided to the Parties
   - documents which Telstra claims are privileged or confidential should be provided to the Parties;
   - if the Working Party considers that documents described in the List should be provided to the Parties, the terms on which those documents should be so provided.

4. **Any disagreement which cannot be resolved is to be advised to the Senate Committee in writing by the Chair of the Working Party.**

314

SCHEDULE A

- Arbitration of dispute between Telstra and Mr Bova.
- Arbitration of dispute between Telstra and Mr Plowman.
- Arbitration of dispute between Telstra and Mr Schorer.
- **Arbitration of dispute between Telstra and Mr Dawson.**
- Appeal proceedings regarding the award in the arbitration of the dispute between Telstra and Mrs Garms.
- **The proceedings undertaken by Mr Robert Bray.**
- **The proceedings undertaken by Mr A Honner.**

FREEDOM OF INFORMATION

- Such proceedings as may have been commenced, or actions as may have been taken, under the Freedom of Information Act, to gain access to documents in the possession of Telstra, by Mr Bova.
- Such proceedings as may have been commenced, or actions as may have been taken, under the Freedom of Information Act, to gain access to documents in the possession of Telstra, by Mr Plowman.
- Such proceedings as may have been commenced, or actions as may have been taken, under the Freedom of Information Act, to gain access to documents in the possession of Telstra, by Mr Schorer.
- Such proceedings as may have been commenced, or actions as may have been taken, under the Freedom of Information Act, to gain access to documents in the possession of Telstra, by Ms Garms.
- **Any matters of dispute concerning requests for documents under the Freedom of Information Act by any person listed below in Schedule B, and by Mr Dawson, Mr Honner and Mr Bray at Schedule A.**

UNRESOLVED MATTERS, INCLUDING THE AMOUNT OF SETTLEMENT OFFERED OR PAID IN RESPECT OF PERSONS LISTED IN SCHEDULE B.

SCHEDULE B

Davis
Dixon
Dullard
Gillan Mrs
Holmes, J F Mr & Mrs
Hynninen Mr
Love
Oldfield, Barbara Mrs
Smith, Alan Mr
Smith, Lorraine Ms
Trzcionka Mr
Tuczynski, John Mr
Turner
Vogt, Mervyn Mr
Wiegmann
Wolfe, Sandra Mrs

[Further details to be circulated when available]

314

Telecommunications
Industry
Ombudsman

12 May 2004

Mr Alan Smith
RMB 4409
PORTLAND VIC 3305

John Pinnock
Ombudsman

Dear Mr Smith

Please find enclosed, your letters to Mr Manson and Mr Russell. Mr Manson and Mr Russell are no longer Board or Council members.

The letters for Ms Marsh, Hon. Staley, Rev. Dr. Newell, Mr Cleary and Mr Brown will be passed on to them by hand at the Council meeting scheduled for 19 May 2004.

Yours sincerely

Phillip Carruthers
Business Manager

315

Postal Address	PO Box 276, Collins Street West, Melbourne, Vic, 8007	Tel Freecall*	1800 062 058
Street Address	Level 15, 114 William Street, Melbourne, Vic, 3000	Fax Freecall*	1800 630 614
Email	tio@tio.com.au	Telephone	(03) 8600 8700
Website	www.tio.com.au	Facsimile	(03) 8600 8797

* calls from mobile phones may incur charges

Telecommunications
Industry
Ombudsman

The Hon. Tony Staley
Chairman of the Council

29 July 2004

Mr Alan Smith
Seal Cove, Guest House
RMB 4409, Cape Bridgewater
PORTLAND 3305

Dear Mr Smith

I have been authorised by the Council of the Telecommunications Industry Ombudsman (TIO) Scheme to reply to letters which you have sent to various members of Council, including myself. Council is aware that you have sent the same or similar letters to Directors of the TIO Board.

Council notes that your claim against Telecom, as it was then known, was finalised nine years ago with an Award in your favour by the Arbitrator.

While you evidently still remain dissatisfied with the nature of the Arbitration procedure and the conduct of the Arbitrator and the Administrator, the TIO Council will not in any way seek to reopen these matters.

Council notes that you at no stage exercised your appeal rights under the procedure and that the relevant Senate Committee which later examined aspects of the conduct of Telecom under the arbitration procedure did not recommend that your Arbitration be reopened.

It is not within the role of the TIO Council to reconsider the Arbitrator's conduct or the Award we made.

Yours sincerely

HON. TONY STALEY
CHAIRMAN – TIO COUNCIL

316

Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

8 October 2004

Mr Alan Smith
Seal Cove Guest House
Cape Bridgewater
Portland RMB 4409, 3305

Dear Mr Smith

Allegations concerning inappropriate conduct by the TIO

We refer to your letters of 10 August 2004 to Mr Staley and 16 August 2004 to Mr Rohan, and respond on behalf of the Board and Council of the TIO Ltd.

As we understand your correspondence, you have previously raised (going back as far as 1996) many of the matters contained in your most recent correspondence. The Board and Council have considered the issues you have raised in your latest correspondence as well as previously having considered the matters brought to their attention in your correspondence over the years.

There has never been any evidence that has led the Board or Council to the view that Mr Smith's or Mr Pinnock's conduct in relation to your case, or any of the other "casualty of Telstra" cases, has been inappropriate. The Board and Council are confident that Mr Smith and Mr Pinnock have carried out their duties as TIO in an appropriate and fair manner and with propriety in relation to the "CoT" cases.

In addition, the amount of time that has passed since the alleged misconduct of Mr Smith and Mr Pinnock would of itself be likely to cause significant difficulties, were the Board or Council to attempt to review the relevant events now.

Mr Warwick Smith has not been an employee of the TIO Ltd for many years, meaning that the Board and Council have little or no practical ability or need to reprimand him even if any misconduct by him could now be proven.

In light of all of the above, neither the Board nor the Council considers it necessary or appropriate to consider your recent claims any further.

Yours faithfully,

JOHN ROHAN
CHAIRMAN TIO BOARD

TONY STALEY
CHAIRMAN TIO COUNCIL

317

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

COV2685

Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

10 January 2005

Mr Alan Smith
Seal Cove Guest House
Cape Bridgewater
PORTLAND TMB 4409 3305

Dear Mr Smith

We refer to your letter of 2 November 2004.

Having read that letter, it remains the case that neither the Board nor the Council of the TIO Limited considers that Mr Warwick Smith or Mr John Pinnock has acted inappropriately regarding your arbitration or associated matters.

Neither the Council nor the Board considers it necessary or appropriate to consider your recent claims any further.

Insofar as your claims relate to alleged criminal conduct, they should be referred to the proper authorities.

Yours faithfully

JOHN ROHAN
CHAIRMAN TIO BOARD

TONY STALEY
CHAIRMAN TIO COUNCIL

318

OFFICE OF THE
MINISTER FOR COMMUNICATIONS,
INFORMATION TECHNOLOGY
AND THE ARTS

Senator the Hon Helen Coonan

PARLIAMENT HOUSE
CANBERRA ACT 2600

Telephone: (02) 6277 7480
Facsimile: (02) 6273 4154

www.minister.dcita.gov.au

Mr Alan Smith
1703 Bridgewater Rd
CAPE BRIDGEWATER VIC 3305

22 APR 2005

Dear Mr Smith

I refer to your further correspondence of 22 March 2005 to the Hon David Hawker MP concerning your claims against Telstra. A copy of your correspondence has been provided by Mr Hawker's office to the Minister and she has asked me to reply on her behalf.

I wish to correct the impression that the Minister is investigating further claims against Telstra, including claims by some of the original 'Casualties of Telecom'.

The Minister has been provided with a document by Senator Len Harris which includes some complaints against Telstra which he considers not to have been fully addressed. This document has now been referred to Telstra.

The Government does not use its position as majority shareholder to influence Telstra's board and management decisions. Any further steps that may be taken by Telstra regarding these complaints are a matter for Telstra's board and management.

Yours sincerely

MATTHEW STAFFORD
Adviser

319A

BARNABY JOYCE

The Nationals Senator for Queensland

15 September 2005

Mr Alan Smith
Seal Cove Guest House,
Cape Bridgewater
Portland RMB 4409 VIC 3305

Dear Mr Smith,

Casualties of Telstra – Independent Assessment

As you are aware, I met with a delegation of CoT representatives in Brisbane in July 2005. At this meeting I made an undertaking to assist the group in seeking Independent Commercial Loss Assessments relating to claims against Telstra.

As a result of my thorough review of the relevant Telstra sale legislation, I proposed a number of amendments which were delivered to Minister Coonan. In addition to my requests, I sought from the Minister closure of any compensatory commitments given by the Minister or Telstra and outstanding legal issues.

In response, I am pleased to inform you that the Minister has agreed there needs to be finality of outstanding CoT cases and related disputes. The Minister has advised she will appoint an independent assessor to review the status of outstanding claims and provided a basis for these to be resolved.

I would like you to understand that I could only have achieved this positive outcome on your behalf if I voted for the Telstra privatisation legislation.

Please be assured that I will continue to represent your concerns in the course of this resolution. I look forward to your continued support.

Kind regards,

Senator Barnaby Joyce
The Nationals Senator for Queensland

319 B

Parliament House, Canberra ACT 2600 • Phone: 02 6277 3377 • Fax: 02 6277 3000

Seal Cove Guest House
1703 Bridgewater Road
Cape Bridgewater
Portland 3305

3rd March 2006

Mr John Pinnock
Telecommunications Industry Ombudsman
P O Box 276, Collins Street West
Melbourne 8007

Dear Mr Pinnock,

You would be aware by now that the Hon Senator Helen Coonan, Minister for Communications, Information Technology and the Arts, has agreed to appoint an independent assessor to review all the outstanding Telstra arbitration cases, including my claims. There are a number of documents that you hold which would help me prepare my submission to this assessment process.

Your letter dated 26th May 1999 (attached) referred to my previous correspondence with the Hon Tony Staley, Chairman of the TIO Council, and advised me that numerous issues raised in my letters to Mr Staley were to be discussed at the next scheduled TIO Council meeting, to be held on 21st June 1999.

1. Under the TIO Privacy Policy Act, I would be grateful if you would forward to me, from the minutes of the TIO Council meeting on 21st June 1999, and any subsequent TIO Council meetings, all references to the issues raised by Mr Staley, regarding the aforementioned letters.

In a subsequent letter dated 12th May 2004 (also attached), Philip Carruthers, TIO Business Manger, advised me that my letter of 26th April 2004 to all the members of the TIO Board and Council *"... will be passed on to them by hand at the Council meeting scheduled for 19 May 2004."* Mr Carruthers indicates that at least five members of the Board and Council would be personally handed copies of my letter at that meeting.

2. Under the Privacy Policy Act, I would be grateful if you would forward to me from the minutes of the Board and Council meeting of 19th May 2004, all references to the issues I raised with the members of the Board and Council in my letter of 26th April 2004.

3. Under the Privacy Policy Act, in relation to my particular Telstra and arbitration matters, I would be grateful if you would forward to me copies of all internal TIO correspondence, including faxes and emails, which were exchanged between the TIO Board and TIO Council between September 1995 and December 2005 (inclusive), in relation to my complaints to the TIO's office concerning my Fast Track Arbitration Procedure and the way the billing, phone and fax problems continued to damage my business after my arbitration.

4. Under the Privacy Policy Act, in relation to my particular Telstra and arbitration matters, I would be grateful if you would forward to me copies of all TIO correspondence, including faxes and emails, which were sent to the Department of Communications, Information Technology and the Arts, between January 1996 and December 2005 (inclusive), in relation

to my complaints regarding Telstra's involvement in my arbitration, the way the billing, phone and fax problems continued to damage my business after my arbitration

Please note that I am not asking for a full copy of any TIO Council minutes but just those parts of the minutes that cover discussions of my matters.

I am also asking for the following documents from both the TIO's office, and their legal arbitration council, Peter Bartlett:

A. All correspondence sent to the TIO and Peter Bartlett, regarding the acceptance by DMR (Australia) of their appointment as technical advisors to my arbitration.

B. All correspondence received by the TIO from DMR (Australia), regarding their reasons for not fulfilling their original agreement to act as independent assessors for my claim.

C. All correspondence sent by the TIO to DMR (Australia), regarding their reasons for not fulfilling their original agreement to act as independent assessors for my claim.

D. All documents sent between December 1994 and December 1996 from the TIO and Peter Bartlett to Lanes Telecommunications, pertaining to my arbitration, including details of their appointment as assessors for my claim.

E. All documents sent between December 1994 and December 1996 from Lanes Telecommunications to the TIO and Peter Bartlett, regarding their acceptance of their appointment to assess my claim material.

F. All documents sent between December 1994 and December 1996 from the TIO and Peter Bartlett to DMR Group Canada, pertaining to my arbitration, including details of their appointment as assessors for my claim.

G. All documents sent between December 1994 and December 1996 from DMR Group Canada to the TIO and Peter Bartlett regarding DMR Group Canada's acceptance of their appointment to assess my claim material.

Since the regulator, AUSTEL, appointed the TIO's office to administer my arbitration, AUSTEL acted on behalf of the Federal Government and the TIO's office administered the process under the Victorian Arbitration Act, my arbitration should have been conducted transparently. This did not happen. Now that the Communication Minister's office has finally agreed to have my claims independently (and therefore transparently) assessed, I should be provided with all the material I need so that I am afforded every opportunity to present the best case I can. I therefore request that you provide all the documents listed above under the Privacy Policy Act, as most of them should have been provided to me when D M R &Lanes took over from DMR Group (Australia).

I await your response.

Thank you for your assistance in this matter.

Sincerely,

Alan Smith

320

Australian Government

Department of Communications,
Information Technology and the Arts

our reference

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

Dear Mr Smith

Thank you for your letter of 10 March 2006 to Ms Forman concerning the independent assessment process.

There is an implication in your letter that I advised you that the independent assessment process is not the process agreed to by Senator Joyce. I did not advise accordingly.

If the material you have provided to the Department as part of the independent assessment process indicates that Telstra or its employees have committed criminal offences in connection with your arbitration, we will refer the matter to the relevant authority.

Yours sincerely

David Lever

David Lever
Manager, Consumer Section
Telecommunications Division

17 March 2006

321

GPO Box 2154 Canberra ACT 2601 Australia • telephone 02 6271 1000 • facsimile 02 6271 1901
email dcita.mail@dcita.gov.au • website http://www.dcita.gov.au

Telecommunications
Industry
Ombudsman

John Pinnock
Ombudsman

20 April 2006

Mr Alan Smith
Seal Cove Guest House
1703 Bridgewater Road
CAPE BRIDGEWATER 3305

Dear Mr Smith

I refer to your letter of 3 March 2006.

I am seeking advice about your letter and will write to you as soon as possible.

Yours sincerely

JOHN PINNOCK
OMBUDSMAN

322

COT/2249

Telecommunications Industry Ombudsman Ltd ABN 46 057 634 787

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

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

CAPE BRIDGEWATER Holiday Camp
Host - Alan Smith
RMB 4406
Cape Bridgewater
Toll Free 008 816 522
Ph. 055 267 267
Fx. 055 267 230

Country Get - Aways

Historical Portland

Victoria's first permanent settlement

27th January 1994

Mr. Warrick Smith,
Telecommunications,
Industry Ombudsman

Dr. Gordon Hughes,
Assessor,
Fast Track Proposal

Mr. Peter Bartlett,
Special Counsel to
Mr. Warrick Smith

Mr. John Rundle,
Ferrier Hodgson,
Accountants

This summary has been completed in two separate stages. The first extract on May 20th 1993, page 18, was given to both Senators, Mr. Richard Alston, Shadow Minister, Communications, and Mr. Ron Boswell, National Party in the Senate in July 1993.

The additional segment was completed at the end of October 1993. These two summaries were from information kept by me on known communication faults. There was at a time prior to this that I thought the only justice to be reached was a Senate Enquiry followed by a book of facts of the faults monitored here at Cape Bridgewater.

I present these summaries for your viewing. This should give an insight into some of the difficulties experienced during my years when trying to run a telephone dependant business.

I have also mentioned this on occasions in this summary. These are only registered faults with evidence. Verbal faults or hearsay are only mentioned in brief. I have had many of these over the past years. One can summarize the devastation from the now mentioned typical verbal complaint, Phillis McDonough & Associates Pty. Ltd., Insurance Assessors & Loss Adjusters.

On ringing this company, based in Mount Gambier, South Australia, when we, C.O.T. agreed on the fast track proposal I rang to ask if I could gain some information on putting together my assessment of losses re Telecom. After talking for only two minutes Mr. McDonough asked had the Cape Bridgewater Holiday Camp storm damage some three years ago. It had. Mr. McDonough's company was appointed loss adjusters by my insurance company, NZ Insurance. He quoted from memory. At the time of trying to make an appointment to assess the damage he and his partner could not ring into the Camp. It appeared our phones did not work. The company ended up by sending a letter of intent to present themselves at a date. This letter I remember. Although this complaint is verbal it is recent, therefore I have included the name and telephone number as reference (087) 25 5166.

322A

Likewise, here is another example - Hamilton High School. I have a written letter confirming the communication difficulties experienced by Mr. Tony Speed, Camp Co-ordinator of that school. He has been aware of the telecommunication faults here at the camp for the past four years.

This school can be used as an example scenario of typical revenue loss.

Hamilton High School amalgamated with Hamilton Secondary School late last year. Mr. Tony Speed is Camp Co-ordinator for both schools. For the past four years Hamilton High School has stayed for a two-night camp here at Cape Bridgewater. Those past four years have yielded revenue of $15,000 with an average student number per year of approximately 70 - 80.

On 16th February to 18th February this year I will have an average student attendance of 160 for the two nights. This camp is worth approximately $8,700.

We now look at a very painful situation.

Had Mr. Tony Speed not known of my communication problems three years ago and elected to go elsewhere just the revenue lost from this one customer would be $23,700 (including this and past three years camps). This is a lot of money.

When you look at the 48 letters I have received from other customers who took the time to write of their experiences in trying to contact Cape Bridgewater, we then realize that there must have been many others who did not bother to persist in trying to make a connection to this business.

One had only to read the letter from the Camping Association of Victoria to understand the name I now have and the customers I have lost.

Whatever assessment is reached of the losses incurred due to these five years of an inadequate phone service, five years where Telecom have blatantly lied about my service, the fact that I had to re-borrow on my mortgage to service it during this time mattered not. This loss will never be measured. My health and wellbeing, like the others of C.O.T., have been stretched to the limit. And, still we are fighting Telecom for our rights under the F.O.I. Act to gain evidence of this injustice.

HEAR WE GO AGAIN! TUESDAY, 25TH JANUARY 1994!

On trying to service my mortgage via St. George Bank, Sydney, last week I applied for a $5,000 loan. That afternoon, at 12.05 I heard one ring, then nothing. At 12.20 I heard one ring then nothing. Half a minute later I heard one ring, then nothing. Half a minute later my phone rang normally. I answered to find that a lady who identifies herself as Michelle from the Loans Department, Sydney St. George Bank. My loan was declined due to my last six years of bad credit rating. I take this on the chin. However, I then asked this fine Australian lady did she experience communication problems before she made contact with the Camp. (SHE DID!) While dialling my 008 number, 008 816 522, she heard only a dead line twice. The other ring at 12.05 must have been someone else trying to ring.

However, back to St. George, Michelle told me she ended up by ringing my other line 055 267267 to get through. I have spoken to her office in Sydney and contracted a Sandra Harris, who is reluctant to get involved, even though Michelle has agreed this happened. I have spoken to Senator Alston's office, Shadow Minister for Communications, about this episode, Austel, and a letter has been written to Mr. Warwick Smith, Telecommunications Industry Ombudsman. I am led to believe he will chase this up and apply for a letter from this staff member of St. George Bank.

322A

I guess now that I have once again put pen to paper. We now go to:

JANUARY 13TH, 1994
Mrs. Tina Velthuyzen tried to ring this business on the morning of this day at 11.38. She has sent along with a letter a Statutory Declaration outlining her difficulties this day in making contact with my Camp.

She rang my 008 number, 008 816 522 seven times. Each time this line was busy - engaged. The eighth time she heard a voice announcement that the number she had dialled is not connected. She reported this to Austel and Telecom.

However, the saga is not yet over. After receiving my 008 account I found that I was charged for three calls which did not register into the Camp.

Telecom's computer print-out NOTE MINE! MRS. VELTHUYZEN is adamant that she spoke to me once only in the afternoon of this day, yet there are three charges.

I might also go back to Christmas and provide more with evidence of a Mr. Jim Humphreys of Mount Gambier. When trying to book into the camp for a Singles Group weekend for three days, he tried to make contact only to get a dead line after many attempts. On the third day he heard a voice announce that we were not connected. However, on the fourth day he got through. It was lucky I did not lose his patronage. He knew of this telecommunication problem as others he had spoken to in Mount Gambier, South Australia, knew of our difficulties. I have a letter from him about this episode.

Now that an assessor has been appointed I was not going to record these faults as I do believe my phones are 200% better than they were four months ago. But again, after losing five faxes a week ago in sending to my accountant, Mr. Selwyn Cohn, my fax registered them as being received. However, on sending the first two, my accountant received the first batch. Then 30 seconds later I sent the other five faxes. Where they ended up is anyone's guess!!! However, my print out records this five as having been transmitted to my accountant, but he did not receive them!.

I spoke with our spokesperson, Graham Schorer, three days ago. My phones don't ring even now, although they are probably 200% better than four months ago. But I have the same nasty feeling as Graham - that the damage is now done and it will take a long haul back to get our should-have-been customers ringing our numbers. The other two C.O.T. cases have already lost their businesses: Ann Gaums and Maureen Gillen. The price for running up against a Government utility has taken its toll!

A documentary has already been started, at least the letters have gone out. Mr. Alston, Shadow Minister for Communications, has agreed to be interviewed, likewise Mr. Campbell, Telecom Group Manager, will, I hope, be pro-active. This 50-minute documentary will show how eight business persons and four C.O.T. members have been treated over many years by Telecom, the Government, Bill Canada South and others. Austel, the Government of the day, has to sit up and take notice.

The documentary is not for vengeance only a case of record.

Allan Smith

322A

Summary in Brief of Events and Discussions between the Proprietor of the Cape Bridgewater Holiday Camp and Telecom

(Prepared by the Proprietor)

1988

Much of the information during this early time, was verbal and records were not kept by me, although Telecom would have my complaints. Many complaints were that our phone was engaged, or that we did not answer the phone when, in fact, we were at the Camp.

1989

September 19th

Mortlake Primary School, Mrs Beavis said she had difficulty in contacting the camp the week before, constantly engaged.

Monday, October

Whittlesea College, Camp Co-ordinator said we were hard to contact by phone the weeks before coming to the Camp, constantly engaged.

November 28th

Telecom came out and tested line, reported by 1100, they reported line OK. Sunday 26th November I am told by a Mrs Margaret Beare she tried to ring me that day at 9.30 am, 10.30 am, 10.50 am, engaged all that time. I was not on phone.

December 4th

Macarthur Primary School, Principal informed me they had rung many times without making contact. Also lunchtime at 12.30 pm on the 29th November our line dropped out while talking.

December 8th

Carrington Youth Group. We were told that our lines were engaged at 8.30 am, 12.00 pm, 12.30 pm, when in fact they were not. 2.15 pm I rang 1100 and also complained our phone was out of action. I rang on our Gold Phone.
I was told I would have to wait until Monday morning to get any assistance. The technician arrived at 11.40 am. Phone replaced!!

December 27th

Telecom found fault in line.

.../

322A

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. I

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.

322A

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.

322A

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 though 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 burning 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.

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.

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.

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

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.

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.

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 recod 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 in 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 assurity.

It mattered not that I told her I would be paying out my partner, Karen Gladmen, 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.

322H

1993

January 4th

As entered in my diary, drop-out at 6.30 pm, 6.35 pm, just the two rings (What Now!!). John said we were engaged at 9.00 pm yesterday. I cannot remember any phone calls in the morning at that time.

January 8th

Three times today the phone rang - just the twice - then nothing. 11.30am, 11.56am, 12.00pm.

January 9th

We are told we were busy at lunchtime on our phone. It had registered engaged. First phone call was at 4.15 - 4.18 pm.

January 12th

Rob said he had tried to ring us but we were engaged. I had only two quick phone calls.

January 13th

Two more rings again then nothing. The Vietnamese Society complained that the Gold Phone is out again.

January 14th

Rang 1100 told them the Gold Phone is out again and to check our lines. Nothing found.

January 20th

Mr Johnston of (03) 456 827 - did we know we had a dead line? He said he would ring back later to enquire about prices etc. for a future Camp. He did not ring back.

January 24th

Two rings then nothing. I never mentioned the time.

February 1st

Mrs Sheppard from Mt. Gambier High School mentioned only in conversation that she thinks she had trouble making contact with me last year.
Our phone drops out again at 11.30 am.

February 5th

I rang the Werribee Outreach Centre to see how many would be arriving next week. I was told they had tried to ring me for the last five days and we never answered our phone. They had to cancel because of a poor response in membership. I spoke with a Mrs Elsie Teer who later sent me a copy in writing of her frustration in trying to make contact with the Camp.

February 8th

Our phone drops out again at 11.30am.

1993, cont.

February 11th

Our phone rings just the twice and then nothing. It is definitely not a hoax call where someone hangs up. I have had enough of this after all the promises from Telecom.

February 18th

Again, another ring then nothing at 11.30. I rang Austel and complained. I also spoke with Rosanne Pittard and got NO WHERE! At 4.30 yet another drop-out DeadLine.

February 22nd

Birchip Community Group complained Gold Phone is not working. Rather annoyed. I rang 1100 to get Portland to act.

February 23rd

Still no Gold Phone. Had a ring twice at 11.00 am and another at 2.45 - just the two rings then nothing.

February 24th

Haddon Community House rang me to confirm a booking for September this year, but could not get through. A Mrs C. Lindsey rang 1100 from the Centre she worked at to get through. The 1100 operator rang Melbourne Telecom Head Office Commercial, and a Telecom technician, Mr Ray Morris, also could not get through to Camp.

He then rang Portland Exchange and the technical unit there apparently put the Camp onto another two separate lines. I am thinking by now "Is this really Australia! I am losing my business through no fault of my own. I have already lost my partner. No one seems to be able to get through to the Camp at will - and no **bastard is listening!!!**

February 25th

I have another two more drop-outs. I have not put the times down. I cannot blame Karen this time. She is not here. I feel so alone.

February 26th

Birchip Community Group leaves. I ring Telecom to check Gold Phone again! It's on the bloody blink again!!!! I am now taking tablets to quieten myself down. I have started to drink Scotch to sleep. I feel so isolated.

March 4th

More obscene notes made about Telecom today! yet another drop-out at 11.45 am.

March 5th

I am told by a Singles Club customer that he has tried to make contact all yesterday, and asked if we didn't answer our phone. I have now started a Single Club with my 008 number to try and get extra revenue into the Camp.

1993, cont.

I have started to advertise in local papers around the country areas as well as Melbourne. This chap must have read one of our ads.

Mrs Lindsey from the Haddon Community House informs me today she has once again found it difficult to make contact with us. Ballarat seems to be a bad area. Last week I had a funny call from a chap saying he had also tried to make contact, and why waste his time in ringing if we didn't answer our phones.

March 9th

Two more drop-outs today - 1.45pm, 2.20pm.

March 10th

Again another two drop-outs - 1.58pm, 2.20pm.

March 11th

Another drop-out today. Rang 1100 and complained. Then rang Melbourne Office Telecom complaints.

March 14th

Had letter from Mr Brenton Smith, my son. He had tried to make contact on March 13th approx. 20 times. He received a recorded message that this number was not connected, and a dead phone the other times. As he is my son he was reluctant to issue this statement. I have the utmost faith in my son's integrity. He knows the pressure this **Giant of a Beast Telecom** has put me under!!!

March 23rd

One ring was reported today. This is a change from he other days. Peter Turner from Hartwell, said we were engaged at 2.25 pm and 2.50 pm. I had a call in the early afternoon, not at those times. Peter said we never answered our phone in the evening either.

March 25th

Hamilton High School Camp Co-ordinator, Tony Speed, heard funny noises on our phone today. This has often happened of late. He also stated he had tried to make contact early in March - 1st to 5th - and got a dead line. Had he not known of our problems over these years he would have gone elsewhere to book a School Camp. (!!!) **How many camps have I truly lost this way?!!!!!!**

March 29th

Mrs Brenda White from Wallacdale tried to ring the Camp today; she had to get the help of 1100 operator as he could only hear a dead line, on four occasions. The operator also heard this dead line and reported it to Melbourne Network.
I have documents of this fact.

April 1st

I picked up the phone this morning and got a busy tone from the phone, at 10.14 am. I asked myself whether I was going nuts!

1993, cont.

April 2nd

A Mrs Connie Hancock tried to ring the Camp from 5.30 pm till 6.30 pm, and got an engaged signal. She then rang again from 7.30 onwards and tried well into the evening only to have to ring 1100. They explained that because of the type of exchange I am hooked up to the operator cannot tell if we are engaged or not, or whether there is a fault. Mrs. Hancock rang Saturday morning and got through. She informed me she would have cancelled her booking had she not got through. Again, I ask Telecom how many customers have I lost over these past four and half years!!!

April 2nd

Jenny Philips tried to ring her husband twice from the Camp this evening only to get other voices on the phone. She then rang from the Gold Phone. How lucky was she this time it was working. I have letters from both these ladies to confirm their story.

April 12th

I have another fault with a ring out at 11.15 am, and also two letters written by two people informing that they had tried to make contact with the Camp.

One lady stated that this number is not connected. Message was heard as well as a constant engaged signal.

Both my numbers 008 and 055 numbers were hard to make contact with the Camp. This chap, Robert Walker, has a coach and last year brought a group of single over forties down from Melbourne so he knew I was in business.

I have again two letters from both parties to verify their story.

April 13th

Received a letter from a Sister (a Nun) Karon Donnellon R.S.M., from Loretto College in Ballarat today. She informs me she had tried in early March to ring me only to get a dead line. She even staggered the calls over a few days but it still did not work. It was by my contact that we learnt of this complaint.

April 15th

I am not sleeping at nights. My phone calls to other members of C.O.T. are now regular. After all, where can I get support. I have rung Austel, Telecom, and no one seems to want to know the truth - that there is a network problem somewhere.

April 19th

Children's Hospital, Melbourne, came in today. Firstly, by 11.08 am I have already had another drop-out. I hear a strange noise - or is it me - am I going crazy!!!

322A

1993, cont.

April 20th

Gold Phone is still out of service. I rang 1100 three days ago. Two children came to me asking if they could use my office phone as the Gold Phone was not working. I suggested they use the phone by the window - meaning my Fax phone - as we do not use the 005 267267 phone to ring out on so as not to congest the incoming calls!! - **when we receive them!!**

The children thought I meant the kitchen window and picked up the 055 267267 phone. It was as dead as it could be. Two nurses came over and they also tried this phone. Dead for sure.

They were not angry at me, but they are reluctant to come back to Bridgewater unless we can guarantee our phones.

April 21st

I had another drop-out today. I succumbed to weeping, and at 48 years of age I am not proud of this. I had another two complaints from customers re Single Club, that we don't answer our phone.

April 26th

Prahran Secondary School came in. They complained very nicely that the Gold Phone is out. It is fixed Tuesday afternoon.

April 29th

I rang Moores, Solicitors, to ask about overdue account. My phone went dead on three occasions. The line just dropped out. I thought it happened three times. My bill report has it that Telecom charged me for all four connections.

I have a letter from Moores to confirms this statement.

May 2nd

Had two more drop-outs today, 10.30 am and 11.40 am. Phone rang just the twice both times.

May 5th

Rang Dr Burnard today and spoke with his secretary. That is, I tried! The phone dropped out three times while trying to dial. I have a letter from his secretary to confirm what happened.

May 6th

Rang Portland Travel to make a booking for Brisbane flight. I was told the sales person would ring back later. At 2.10 pm both Margaret a staff member and I were in the kitchen and heard just the one ring. As usual we were unable to make a dash for the phone.

Ten minutes later the salesman from Portland, Mr. Ray Barker, re-rang our number to inform us he had tried to ring us before at 2.10 pm and the phone had rung three times - then nothing.

1993, cont.

Bingo! More proof that I am not going nuts - I think!

I have a letter from the travel centre to confirm this attempted call, as well as a letter from Margaret of my staff.

May 14th

I rang the Camp from Melbourne and could not get through to the Camp at 9.30 am. The phone just rang out. When I did get through Mr Kevin Turner said he had not used the phone that morning at that time. He also added he made a phone call to a Steel Manufacturer in Heywood on Tuesday 27th April at approx. 11.23 am with the phone cutting out this day as well.

This has been confirmed by Westvic Steels as correct. Mr Turner has written a declaration confirming what appears here.

May 18th

Again one ring then nothing, 11.10 am.

May 20th

On arrival back from talks with Telecom I have a very bad day. Is this really happening!
9.15am, 1.30am, just two rings then nothing. I grab the phone on both occasions to find no sound. At 9.40am, 11.05am I have two drop-outs, one is to Mr Blount's office. I spoke with his secretary and the phone rang out again. She has not confirmed this yet.

These 17 pages may not have the same impact as what has really taken place here at Cape Bridgewater. My health has suffered to the point where I now run to the phone. I am jumpy and tired.

I have lost a partner through all this saga and still this Beast of a Giant TELECOM refuses to listen and accept the reality of what they have done to so many people in this country. I am lost for words at their blatant denial of the true facts of many a problem they have been confronted with from past customers.

A government department must look at their past crimes. If a private individual had gone about in the manner Telecom has adopted of concealing all their blunders, that private individual would be facing a Court of Law.

This record was finished on May 20th.

Since that date Telecom has admitted abnormalities in my telephone system, and also have admitted knowing that their tracing equipment has detected nine actual faults in one particular day! - being June 1st!

Further, during the preparation of this document several attempts were necessary before success in Faxing the draft material to me for checking.

32.2A

Allan Smith

June 1st A Mr. Black of 2/52 Hartwood St., East Kew, tried also this morning to make contact. On calling 008 816 522 he received several times a message that this number is not connected. His exact words I have on file: "it appears it is very hard to contact your place of business from your advertisements".

7.10pm a singles club enquiry. Cheryl said she tried to ring at approx. this time. It appeared our phone rang out as though we were not in office, although we were. This has been reported to Network investigation.

June 5th Ballarat range. A customer got a ring out at 10.30 am. Cheryl Lang, I asked her to send this information to me. She did not. Another customer lost.

June 7th 10.30 a customer 03-859-4786 heard three repeat messages that we were not connected. This was also mentioned to Network investigation. Their testing equipment has yet to tell us anything, or so Telecom tell me.

June 8th One ring then nothing at approx. 10.30. didn't clock the exact time, but reported to Network the fault.

Telecom rang, 0173. they Tried to ring twice only to get a piercing sound on the line. This is the early Reminder Call Section of Telecom. They later sent a fax (I have this copy) to say there was no Early Reminder Call on their records, yet I had been charged for this on my bill. This is why I contacted 0173 to clarify this overcharge. (Is it any wonder I am not completely mad by now!) I have now evidence of so many overchargings on my bills I am not certain on which front to tackle Telecom.

Telephone faults for now.

June 8th **4-10 pm** One ring then nothing, line dead.
20-18 " " " " "
10-20 " " " " "

I have been asked by Network to keep records of faults on their chart. I already do. Anyway, we have another fault come up on my 008 number at 10.30am. I pick up the phone and no pips, nothing just silence. Dead line. I could also have been local call as no pips.

10th June **11.10, 11.20 and 11.27 am** Two rings on my fax, then nothing. At **4.35pm** two rings then nothing. What the hell am I going to do. This is crazy stuff!

11th June **1.20pm** two rings then nothing. A dead line. this was on my fax phone. AT **4.15pm** one ring then nothing.

I have reported all these faults to Telecom Network, and this so-called testing equipment is not telling us anything.

Lo and behold, while talking to John MacMahon, General Manager, Austel, Consumer Affairs, my incoming line rang - not once, not twice then nothing, but six separate times, all in a row. HOW ABOUT THAT! It took from **4.15** to **4.22pm** to finally stop. Each time I picked up the receiver there was a dead line. Again, Telecom have not responded to questions of how come.

I have decided to add another few months to the continuing saga of my telecommunication problems. Today I received a letter from Telecom management,

June 13th

Two rings at 10.04 am then dead line - two rings at 10.08 then dead line!! A faint noise on my fax line at 10.08. Spoke to Melbourne Commercial and asked for Rosanne Pittard, General Manager, Vic/Tas Telecom Commercial remarks about these faults. (She did not get back to me.) What's new!

June 16th

One ring then dead line at approx. 10 am. I have not put exact time on the wall planner. Again, at 11.06 one ring then dead line. Looking at the wall planner on the 17th June I have Margaret saying two rings then nothing. She is employed by me. Times are 11.04 and 11.09. I am not sure what faults she experienced, however they are listed. I have also a fault listed at 4.00 pm. Two rings then nothing.

June 16th

I have started to ask people who ring the Camp now, have they at any time experienced any faults at all, while trying to make a connection here at Cape Bridgewater.

Quite a few clients from Ballarat, and the South Australian area of Mt. Gambier have said I was engaged a lot.
Pat Maloney from Mt. Gambier, after talking to me about a Singles Weekend said before she spoke to me th my line rang out as though I was not home a couple of days ago. I have been at the Camp, or a staff member has, during this time, with no non-attendance.

This is not the first time people have said this about my phones when I know I have been in attendance. It is all very well for me to write these faults down. I have knowledge of them and experience them myself, therefore, I can log them. But once again, as in the past I am hearing from others that the engaged signal or ring out tone as if I have not answered my phone could be another prominent fault as well. How am I ever going to judge this along with the others unless I ask the incoming callers whether they dialled before they actually got through. How in the bloody hell does Telecom think this can go on for!

I will mention this to the Senate Enquiry. A Portland technician spoke to me yesterday. There are faults in the service in this locality. At least I find there are some Telecom employees who are human. Hearing this has taken so much strain of me from just trying to cope. I am so worried for all the C.O.T. members, to think we are all still fighting this 'animal'.

It has been suggested to me by an accountant that if I was to add up all the letters that I have received from customers that found it difficult to ring here at Cape Bridgewater, and add a minimum of six persons for every letter received I have 32 letters), add the average Camp fee, and an estimate is reached of what wold be a minimum lost in revenue only. I have come up with $260,000 over a four year period! this does not take into account flow-ons and a depreciation of Camp facilities, whereby I have not had this income to upgrade, thus allowing me to be on part with my direct competitor. And again, this does not take into account the last six months, as well as the stress in trying to run a business half blind. And

16th June A clear week at last, although I believe two nights ago my fax did not receive a fax. Cannot be sure.

10.12am Two rings today then nothing dead line
10.18am " " " " "

Also at 11am a Julian Cross from the 60 Minutes Team tried to ring me yesterday at 11am and heard a repeated message that we were not connected. He then tried my other number and was told by Telecom that

the lines in this area are congested. he tried for over half an hour to make a connection. He ended up getting a connection via the 1100 operator. And I am not yet crazy, I THINK!!

(60 Minutes have this report also) I might break the pattern of faults here. On 3rd of this month I met with Telecom Network here at Cape Bridgewater. I will not go over issues raised, but I was not polite to the technicians, yet I understand they are only trying to do a job. My stress level is not good and I think the network Support Group were glad to leave after they could see for themselves what I have put up with these past five years. However, with their haste to leave one of the chaps left a briefcase behind. And I ended up looking inside. The rest is history where Austel is concerned. These documents which were in this briefcase clearly show Telecom had been misleading me about many of my faults for years. So this is the reason for this continued struggle to self-monitor my telecommunications faults.

I had regular contact now with this Telecom Support Group and much of my complaints regarding ringouts, dropouts, engaged signals and dead lines are, for now, being taken over by Network. WRONG, I rang up a Mr. Dave Stockdale so many times with faults over the next two weeks I lost count. I am yet to get any real clarified reason for those Telecom equipment test results I have up asking why.

Enter July, with Mr. Stockdale informing me there are no more faults to be found, and that things seem to be OK. Stupid as the reader might think I am, I hoped - not believed - that what Telecom was telling me was true. I tried to talk myself into trusting, as I had started to lose faith once again. I even wrote letters to Telecom management telling them I believed my communication problems were over. I had, in fact, willed myself to believe this. WHY, to hang in there and not be a Telecom Casualty. There are so many business people in Australia who have lost all, due to Telecom's misleading and deceptive conduct.

5th July **4.18pm** one ring then nothing, you guessed it, dead line.
approx.4.24pm " " " " " "
Sunday, yesterday, I was talking once again to a Singles Club person who was to come next weekend, Phil from Kew. He believes he had also tried to ring on my 008 number and could not get a connection the week before. He finally got through after about three or four tries.

July 8th Things seem to be a little better as far as my phone is concerned. Those two rings then nothing. But what is starting to be apparent is that people are not getting through on my lines, so I am unable to register a fault. I have started to ask myself whether this has also been a major fault - customers believing I am not at my business, when I am.
had just one drop out today at 2.45pm.

322A

I don't think I am so stressed out now. I am taking this whole saga in my stride.

9th July Again, just the one fault today at 1.20pm. No ring sound.

11th July Warrnambool Standard complained they tried to ring me only to get a recorded message. I forwarded this complaint to Telecom Network, Mr. Dave Stockdale. He convinced the Warrnambool Standard reporter that he had pressed the wrong number. Before I originally spoke to Mr. Stockdale I first asked the young reporter, Steven, if he could have dialled incorrectly. He believed not. Yet five minutes with a Telecom Network Support Tech, and he changed his tune.

15th July No, not again! This is not really what I have written to Mr. Ian Campbell, Telecom Commercial General Manager, that I think my phones are working OK. I now know without any further misunderstanding that I had wanted to settle with Telecom and told them I was happy now with their service. How stupid - an innocent. At 49 years of age I have fooled myself to believe.! Two more complaints!

16th July 12.05, two rings then nothing. Also I picked up the phone and it was dead first try. I did not monitor this fault at the approximate time.

18th July Sunday, isn't this the day of rest. Bullshit! 9.20am-9.35am all of the same. Why in the bloody hell is this Network picking up these faults with this test equipment.

Truly, a whole month, and I am not making this up - NO FAULTS!

NO FAULTS! I am not writing just to highlight these faults alone.

9th August I had a telephone call from a Ms. Magraw from Horsham. She had spoken to me about a possible weekend at the Camp. She was on the phone, she believes, for about 10 minutes. She has made it 15 minutes and faxed this information off to Senator Boswell of the time span. She rang at 4.15pm.

7.03pm A Graham Schorer rang and said my phone had been engaged all late afternoon. A Mrs. Espinoza from Doncaster said likewise. She had been trying to ring me all afternoon, but to no avail. Engaged, engaged, engaged!! I rang my past friend, Telecom Network. Mr. David Stockdale at first when I rang him said we, Mrs. MaGraw, were on the phone for 2 hours and 40 minutes. Bullshit! and that is fact. I said Bullshit! Check your bloody testing equipment!

BINGO!! For the first time Mr. Stockdale agreed there was, in fact, a fault found on my line. In fact, my line had been jammed for two and a half hours. How come? Well, I was told by Mr. Stockdale that it was the test equipment that failed. But sure enough, my lines for the very first time I had proof. Well, not exactly, because I also have copies of Telecom internal documents that clearly show MY line is known to have faults for at least five years.

Anyway, I am not finished with July 17th 1993. After having to admit Mr. Stockdale found a fault, I now ask myself, and put it to the reader of this

August 25th

I have decided today to continue writing known telecommunication fault reports associated with this business.

I had hoped at the end of May this year that my communication faults had been rectified by Telecom. (THEY HAVE NOT), hence my continuation from where I left off in May. As These known faults are taken from my year planner which I have marked when complaints were noticed.

I again make it clear to the reader, all that I have said in these extracts are known incoming and outgoing telephone problems experienced either by staff, myself, or customers.

All that I have said over the past years about these communication faults here at Cape Bridgewater are fact, not fiction as Telecom has made out on many occasions. I will even go a step further and offer myself and these allegations to a Senate Enquiry or scrutiny by way of a polygraph test, whichever the case may be. Telecom will have NO FOUNDATION.

May 22nd

I have three different times monitored on this day, but no description of the type of fault. 10.00 am, 10.07 am, I think these particular faults were (two rings then dead line). At 4.30 pm I have (two rings then dead line).

May 24th

Went to Melbourne today to a meeting with Telecom and Austel. More of the same. Denials that we have a communication problem. Margaret, a staff member at the camp said she experienced a two-ring situation while I was away twice on two separate occasions. However, she did not monitor the times, only that they were early morning.

So now we go back to **May 27th.**

My fax line has played up again. A short ring then nothing at 10.30 am. I am sure my fax is not working as Telecom has not confirmed any outcome yet of my questions to them on this matter.

I guess I am experiencing a lot from Telecom. The only response I have had regarding any information which is of value has come from my local technicians here in Portland. I still cannot believe at times that I along without other members of C.O.T. have actually suffered in this way. And all we have ever wanted from Telecom is the truth about a telephone service. We have made it clear to Austel to the Minister for Communication, Mr. David Bedall, that we do not want to hurt Telecom with these allegations. They are fact, all we have ever wanted is to stop Telecom from hurting us and our businesses.

June 1st

A Mr. John Gibbs, Manager of Bentleigh Bus Lines today tried to ring from 11.00 am to 11.40 am. We appeared to be engaged during this time. I spoke on the phone for approximately 10 minutes at 11.00 am. Telecom has a monitor on this line. This fault was lodged as fact.

2148

Country Get Aways
(35 and over)
A country social club you can afford
Bring a friend or meet new friends
Summer and Winter getaways
This is a social club with its own accommodation and activity centre by the sea
A place to meet with caring country persons with the same interests
For further particulars contact
(008) 81 6522 (TOLL FREE)

Country Get Aways
Portland
(35 and over)
A country club you can afford
Bring a friend or meet new friends
Summer and Winter getaways
This is a social club with its own accommodation and activity centre by the sea
A place to meet with caring country persons with the same interests
For further particulars contact
(053) 26 2687 or (008) 81 6522 (toll free)

May 27th

I cannot be sure, but after talking to another Ballarat lady re Singles club it is apparent that the 053 area is where I am losing much of my business.
Mrs. Lyndsey and friends have talked about their Community House Co-ordinators (Haddon) who have at different times over a two-year period had extreme difficulty in making a telecommunications contact with my camp. I have two different letters from two of these co-ordinators, one person having experienced many times over a three-month period in 1991 repeated voice announcements that my number was not connected. It was only luck that I had sent out circulars about my camp to the Haddon Community Centre week before that made Mrs. Crittenden check with 1100.

The fact that other co-ordinators knew of my telecommunication faults was only the reason I ended up with their patronage. Mrs. Lyndsey, however, has continued to experience these communication faults as late as March of this year, when trying to confirm a group booking for a club. Haddon Centre have over a three year period been down to Cape Bridgewater on three separate occasions. It is just as well they know of these problems, otherwise this would have been three separate bookings lost. For reference only, I have valued the revenue I received from these three camps over this period and flow-on by word of mouth bookings, approximately $11,000. One does not have to be much of a mathematician to value what the Cape Bridgewater Holiday Camp has lost in revenue associated with lost phone calls and flow-ons. So, we look forward not backwards, and hope what I write in way of evidence can be of assistance at either a Senate hearing or in a book, which I feel must be written to show the people of Australia what a telephone dependant business goes through if they have a service not fit for the purpose.

10.30 a customer 03 859 4786 heard three repeat messages that we were not connected. This was also mentioned to Network Investigation. Their testing equipment has yet to tell us anything, or so Telecom tells me.

322A

June 1st A Mr. Black of 2/52 Hartwood St., East Kew, tried also this morning to make contact. On calling 008 816 522 he received several times a message that this number is not connected. His exact words I have on file: "It appears it is very hard to contact your place of business from your advertisements".

7.10pm a singles club enquiry. Cheryl said she tried to ring at approx. this time. It appeared our phone rang out as though we were not in office, although we were. This has been reported to Network investigation.

June 5th Ballarat range. A customer got a ring out at 10.30 am. Cheryl Lang, I asked her to send this information to me. She did not. Another customer lost.

June 7th 10.30 a customer 03-859-4786 heard three repeat messages that we were not connected. This was also mentioned to Network investigation. Their testing equipment has yet to tell us anything, or so Telecom tell me.

June 8th One ring then nothing at approx. 10.30. didn't clock the exact time, but reported to Network the fault.

Telecom rang, 0173. they Tried to ring twice only to get a piercing sound on the line. This is the early Reminder Call Section of Telecom. They later sent a fax (I have this copy) to say there was no Early Reminder Call on their records, yet I had been charged for this on my bill. This is why I contacted 0173 to clarify this overcharge. (Is it any wonder I am not completely mad by now!) I have now evidence of so many overchargings on my bills I am not certain on which front to tackle Telecom.

Telephone faults for now.

June 8th 4-10 pm One ring then nothing, line dead.
20-18 " " " " "
10-20 " " " " "

I have been asked by Network to keep records of faults on their chart. I already do. Anyway, we have another fault come up on my 008 number at 10.30am. I pick up the phone and no pips, nothing just silence. Dead line. I could also have been local call as no pips.

10th June 11.10, 11.20 and 11.27 am Two rings on my fax, then nothing. At 4.35pm two rings then nothing. What the hell am I going to do. This is crazy stuff!

11th June 1.20pm two rings then nothing. A dead line. this was on my fax phone. AT 4.15pm one ring then nothing.

I have reported all these faults to Telecom Network, and this so-called testing equipment is not telling us anything.

Lo and behold, while talking to John MacMahon, General Manager, Austel, Consumer Affairs, my incoming line rang - not once, not twice then nothing, but six separate times, all in a row. HOW ABOUT THAT! It took from 4.15 to 4.22pm to finally stop. Each time I picked up the receiver there was a dead line. Again, Telecom have not responded to questions of how come.

I have decided to add another few months to the continuing saga of my telecommunication problems. Today I received a letter from Telecom management,

CAPE BRIDGEWATER

Assessment Submission

Letter of Claim.

322B.

7 June, 1994

Cape Bridgewater

12 June 1994

Dr. Gordon Hughes,

Arbitrator,

Fast Track Procedure,

Dear Sir,

Please accept this correspondence further to my statement of claim in regard to the Fast Track Arbitration Procedure.

EXPLANATION OF LETTER OF CLAIM

Dr. Hughes, I would like to inform you of certain problems that I have experienced in preparing this claim for submission to yourself. Unfortunately, I have not had the time that I felt necessary to make the preparations that I would have liked. I thank you for your allowing myself an extension until the date of submission - 15th June, 1994.

321B

provide me with documentation in respect to their experiences with my faults. I will list these in chronological order.

In September of 1989 I realized that I ought to commence to keep a comprehensive record of the faults and fault evidence. As a result of that I commenced to make contemporaneous entries in my diaries and those diaries are currently in the possession of Loss Adjusters, Freemans Plummer and Pullinger in Queensland.

On the 27th January, 1994, I corresponded to Mr. Warwick Smith, Telecommunications Industry Ombudsman, and I attached to that correspondence 37 separate pages of faults. I would direct your attention to those 37 pages of faults as I have attached them to this correspondence also. I would point out that they are contemporaneous notes that have assisted me in formulating my claim on this occasion. You are aware by now that Telecom have failed to keep any such record of the history of faults with my telephone service (Ref p 1289) or for that matter any other telephone service with any other difficult network fault customer in Australia. Extensive attention is paid to their failure to keep records in the reports of Coopers and Lybrand and the Australian Telecommunications Authority. I would submit that my records are far more accurate than Telecom's and accordingly ask you to take them into account when making a determination with respect to my claim.

These same records were presented to Senators Alston and Boswell in May of 1993, and are evidence that the records are of a contemporaneous nature.

Furthermore, I have attached correspondence from clients and other business operators in the

:ctions 4 and 5 are an impact assessment and summary. We have ascertained that there were times when the service provided by Telecom to Mr Smith, quite aside from problems with CPE, fell below a reasonable level. These times ranged in duration from years in some cases, to 18 months in one case, to an estimated 70 days in one case, to shorter times in other cases. These durations of poor service were, in our judgement, sufficiently severe to render Mr Smith's service from Telecom unreliable and deficient.

Cape Bridgewater Documentation

The "Fast Track" arbitration proceedings are "on documents and written submissions". More than 4,000 pages of documentation have been presented by both parties and examined by us. We have also visited the site. Not all of the documentation has real bearing on the question of whether or not there were faults with the service provided by Telecom. We reviewed but did not use Mr Smith's diaries (Telecom's examination of Mr Smith's diaries arrived in the week of 17 April 1995). Like Telecom, we separate the problems caused by Mr Smith's CPE from those in Telecom's service and concentrate only on the latter. A comprehensive log of Mr Smith's complaints does not appear to exist.

The Technical Report focuses only on the real faults which can now be determined with a sufficient degree of definiteness. We are not saying anything about other faults which may or may not have occurred but are not adequately documented. And unless pertinent documents have been withheld, it is our view that it will not be feasible for anyone to determine with certainty what other faults there might or might not have been.

A key document is Telecom's Statutory Declaration of 12 December 1994. Without taking a position in regard to other parts of the document, we question three points raised in Telecom's Service History Statutory Declaration of 12 December 1994 *[Ref B004]*.

"Bogus" Complaints

First, Telecom states that Mr Smith made "bogus" complaints [B004 p74, p78, Appendix 4, p10]. What they mean is his calls in June 1993 from Linton to test Telecom's fault recording. As others have indicated (see Coopers and Lybrand Review of Telecom Australia's Difficult Network Fault Policies and Procedures, November 1993, p6) "Telecom did not have established, national, documented complaint handling procedures [...] up to November 1992," and "documented complaint handling procedures were not fully implemented between November 1992 and October 1993." Furthermore, [p7] "fault handling procedures were deficient." Smith's June 1993 calls from Linton were, as he has stated, to test Telecom's fault reporting procedures, because people who had been unable to reach him told him that Telecom did not appear to be doing anything when they reported problems. We find Smith's tests in this instance to be unlikely to effect any useful results, but the term "bogus" does not apply.

There were occasions when Mr Smith mistook problems with his own CPE for Telecom faults, but this is a normal occurrence in the operation of any multi-vendor system, which the end-to-end telephone system increasingly is. Telecom takes pains to separate these CPE problems from the legitimate faults, which they acknowledge.

322 C

Ndad.
8/9.

Hunt & Hunt
LAWYERS

Partners
David M. Scarlett
Edward S Boyce
James G.F. Harrowell
Gordon L. Hughes
Mark T. Knapman
David P. Cooper
Ian S. Craig
Peter J. Ewin
Wayne B. Cahill
Neville G.H. Debney
Grant D. Sefton
Charles Veevers
Andrew Logie-Smith
William P. O'Shea

Consultants
Kenneth M. Martin
Richard J. Kellaway
Andrew Jenkins

Associates
Shane G. Hird
John S. Molnar
Melissa A. Henderson
Francis V. Gallichio
John D.F. Morris

18 September 1995

Our Ref: GLH
Matter No: 5122795
Your Ref:

Mr John Pinnock
Telecommunications Industry Ombudsman
321 Exhibition Street
MELBOURNE Vic 3000

Dear Mr Pinnock

ARBITRATION - ALAN SMITH

I enclose copy correspondence received from Mr Smith dated 14 September 1995.

I shall continue to refrain from responding directly to Mr Smith's correspondence. I remain willing to fully co-operate with you in clarifying the issues he raises.

In relation to his diaries, Mr Smith insinuates that when I handed these to Telecom, I overlooked his stipulation that they were to remain in my office. I refer you to my ruling of 13 December 1994 that the "testing" of the diaries could not be conducted on my premises. Telecom's letter of 12 December 1994 sets out why this was the case. I telephoned Mr Smith on 13 December 1994 to explain why the diaries had to be tested in properly equipped facilities. At all times a member of my staff was present for the testing. At no time until now has Mr Smith raised an objection to this process.

I do not believe it is necessary for me to comment on the other matters raised in the correspondence but, as indicated above, I would be happy to do so if requested.

Yours sincerely

GORDON HUGHES

Encl.

cc E Benjamin, P Bartlett, J Rundell

322D

melbourne
sydney
sydney west
brisbane
canberra
newcastle
represented in
adelaide
darwin

Level 21, 459 Collins Street, Melbourne 3000, Australia. **Telephone:** (61-3) 9614 8711.
Facsimile: (61-3) 9614 8730. **G.P.O. Box 1533N**, Melbourne 3001. **DX 252**, Melbourne.

The Australian Member of Interlaw, an international association of independent law firms • Asia Pacific • The Americas • Europe • The Middle East

ARBITRATORS COPY

Sources of Information

The information provided in this report has been derived and interpreted from the following documents:

- Smith - Letter of Claim (SM1)
- Smith - George Close Report dated 5/7/94 (SM8)
- Smith - George Close Report dated August 1994 (SM9)
- Smith - Telecom Defence Witness Statements
- Smith - Telecom Defence B004 Service History
- Smith - Telecom Defence B004 Appendix File 1
- Smith - Telecom Defence B004 Appendix File 2
- Smith - Telecom Defence B004 Appendix File 3
- Smith - Telecom Defence B004 Appendix File 4
- Smith - Telecom Defence B004 Appendix File 5
- Smith - Telecom Australia - Ref 1 Statutory Declaration of Ross Marshall. Ref 2 An Introduction to Telecommunications in Australia. Ref 3 Telecom Australia's Network Philosophy. Ref 4 Glossary of Terms
- Smith - FOI Material 19 December 1994 (SM44)
- Smith - George Close & Associates Report 20 January 1995 - Reply to Telecom's Defence (SM50)
- Smith - Samples of FOI Telecom Documents (SM49)
- Smith - Appendix C Additional evidence (SM48)
- Smith - Summary of TF200 Report (SM47)
- Smith - Bell Canada International Inc. Further information (SM46)
- Smith - Additional information (SM45)

A site visit was conducted on Wednesday 4th April 1995 covering:

- inspection of the Cape Bridgewater RCM exchange
- inspection of the CPE at the Cape Bridgewater Holiday Camp
- inspection of the exchange equipment at Portland (RCM, AXE 104, ARF)
- discussions with Mr Alan Smith, accompanied by Mr Peter Gamble of Telecom Australia.

322E

Sources of Information

The information provided in this report has been derived and interpreted from the following documents:

- Smith - Letter of Claim (SM1)
- Smith - George Close Report dated 5/7/94 (SM8)
- Smith - George Close Report dated August 1994 (SM9)
- Smith - FOI Material 1994 (SM44)
- Smith - George Close & Associates Report 20 January 1995 - Reply to Telecom's Defence (SM50)
- Smith - Samples of FOI Telecom Documents (SM49)
- Smith - Appendix C Additional evidence (SM48)
- Smith - Summary of TF200 Report (SM47)
- Smith - Bell Canada International Inc. Further information (SM46)
- Smith - Assessment Submission (SM2)
  - 1-200
  - 200 - 400
  - 400 - 600
  - 600 - 800
  - 800 - 1,000
  - 1,000 - 1,289
  - 2,001 - 2,158
- Smith - Reply 18 January 1995 (SM53)
- Smith - Reply - Brief Summary January 1995
- Smith - Further Examples of Additional Evidence Two Volumes (SM16)
- Smith - Further FOI Material (SM17)
- Smith - Cape Bridgewater Par 1 & 2 (SM 20 & 21)
- Smith - Additional information (SM45)
- Smith - Telecom Defence Witness Statements
- Smith - Telecom Defence B004 Service History
- Smith - Telecom Defence B004 Appendix File 1
- Smith - Telecom Defence B004 Appendix File 2
- Smith - Telecom Defence B004 Appendix File 3
- Smith - Telecom Defence B004 Appendix File 4
- Smith - Telecom Defence B004 Appendix File 5
- Smith - Telecom Australia - Ref 1 Statutory Declaration of Ross Marshall. Ref 2 An Introduction to Telecommunications in Australia. Ref 3 Telecom Australia's Network Philosophy. Ref 4 Glossary of Terms
- Smith - Telecom Defence Principal Submission
- Smith - Telecom Defence Legal Submission
- Smith - Telecom Supplement to Defence Documents

NUMBERING SYSTEM USED IN THESE PARTICULAR CLAIM DOCUMENTS

M34219

322F

Telstra FOI Number

As Doc 5 519

28/1/94	Free-Hill - Letter - Cape Bridge		FOI	1
30/11/93	Telecom - Draft		FOI	2
1/4/93	Letter - Outreach			3
22/6/93	Telecom Acknowledgement That Certain *AXC Customers Experience Difficult* Network Faults		FOI	4
5/11/93	Telecom - Minute - RCM	2 Fault	FOI	7
28/4/94	Telecom Minute - RCM	1 Fault	FOI	8
28/3/94	Telecom Minute - RCM	1 Fault	FOI	9
24/3/94	Telecom Minute - RCM	2 Fault	FOI	11
13/4/93	Letter Lorreto College		—	13
4/12/93	Telecom - Fault Record	1Fault	FOI	14
1/3/94	Telecom Fault Report - RCM	1Fault	FOI	15
9/8/93	Telecom Fault Report - RCM	9 Fault	FOI	16
9/2/93	Telecom Report - RCM (Faults for 3mths)		FOI	17
2/6/93	Telecom Fault Report - RCM + Congestion + RVA	3 Fault	FOI	18
30/1/94	Telecom Graph - RCM	1 Fault	FOI	19
	J.T.M. International Marketing Mr Smith's Belief of a Very Lucrative Businees Venture Lost Through an Inadequate Phone Service		—	20
31/3/94	Telecom Memo - Congestion	3 Fault	FOI	22
31/3/94	Telecom Memo - Congestion	?	FOI	22a
10/3/94	Telecom Memo - Congestion + Fax	7 Fault	FOI	23

322G

28/2/94	Teecom Memo - Congestion	1 Fault	FOI	24
29/3/94	Telecom Memo + Congestion 10%	1 Fault	FOI	25
2/4/94	Telecom Memo - Congestion	1 Fault	FOI	26
8/4/94	Telecom Memo - Congestion	1 Fault	FOI	27
7/4/94	Telecom Memo - Congestion 30%	?	FOI	28
16/6/93 to 29/6/93	Telecom Fault Report - Busy + RVA + Congestion - 1 Burst - Weird - Answer	12 Fault	FOI	29
22/7/92	Telecom Fault Record - (RVA 5 Faults) (CONGESTION 1153 Faults)	?	FOI	30
18/6/93	Fax (60 minutes TV) - Congestion - 008	2 Fault	----	31
22/5/93	008 Account - Incorrect Billing	?	----	32
22/5/93	008 Account - Re Above Customer Letter	2 Fault	----	32a
18/7/94	008 Account - Incorrect Billing	14 Fault	----	33
2/2/94	008 Account - Incorrect Billing	4 Fault	----	34
26/4/94	008 Account - Incorrect Billing	7 Fault	----	35
16/2/94	008 Account - Incorrect Billing	6 Fault	----	36
17/6/94	008 Account - Incoorect Billing + RVA	16 Fault	----	37
29/11/93	Telecom - Incorrect Billing Ann Garms / Alan Smith Re Fax Monitoring Smith's Premises by Telecom - 20 Incorrect Charges to Ann Garms Whilst Fax Was in Use By Telecom - Also Telecom Data Incorrect To Smith's Data 15 Compared to 20	20 Fault	FOI	38/44
17/8/93	Daylesford 5 Incorrect Calls	7 Fault ?	FOI	45

322G

9/8/93	2 1/4 Lockup Acknowledged - Telecom	1 Fault	FOI	47
9-18/8/93	Telecom 7 day CONFUSION	3 Fault?	FOI	48
31/8/93	Telecom Corp Sec - Will Not Admit 1100	5 Fault	FOI	50
18/8/93	Unsuccessful Test Calls to Bridgewater	63 Fault	FOI	51
5/1/94	Incorrect Charging	3 Fault	FOI	52
12/5/94	Incorrect Charging	1 Fault	FOI	53
27/5/94	2 RVA 008 a/c - Incorrect Charging + Incorrect CCAS Monitoring	2 Fault	FOI	55
4/10/93	Continued Problems Connecting 267267 Network Faults MELU Exchange Incorrect 17/3/93 Continued Faults in Country Areas 008 More Problems Reported Heywood 1 Burst of Ring/Insuffient Software Blocks 90 Second Cut Off - Continued Faults	15 Fault ??	FOI	56 57/61
1/3/93	RCM System Was Found Performing Poorly - Protection Moules Problems 2/3/93 RCM Problems VF Cutoffs 5/3/93 RCM Previous System Faulty - Caused By Bearer Block Another Problem ? Caused By Non Modified Channel Cards 15/3/93 Callers to Camp Noise on Line	Faults?	FOI	62
7/4/93	2 Bursts - 16/4 RVA Queensland	2 Fault	FOI	63
12/7/93	RVA Warnamabool	1 Fault	FOI	64

322G

2/1/93	Telecom Fault Record - RVA - Busy 89 Faults (1mth) from Cape Bridgewater	?	FOI	70
14/10/93	Telecom Memo Fault Summary	----	FOI	71
16/1/94	Telecom Data - Short Duration Calls	16 Fault	FOI	72
26/10/93	Telecom Memo - RVA (The Old School)	----	FOI	73
16/1/94	Telecom Data - Short Duration Calls	24 Fault	FOI	74
24/2/94	Telecom Data - Short Duration Calls	27 Fault	FOI	75
24/2/94	Telecom Data - Short Duration Calls	26 Fault	FOI	76
28/4/93	Childrens Hospital Letter	2 Fault	----	77
5/5/93	Prahran Sec College	5 "	----	78
1/5/93	Camp Letter to Telecom (4 pages)	?	----	79
7/5/93	Childrens Hospital - Letter to Camp	----	----	81
3/1/93	Miss Cullen - Letter to Camp	----	----	82
3/1/93	Daylesford Comm. House - Letter	----	----	83
----	Camp Brochure	----	----	86
----	Camp Brochure	----	----	87
----	Camp Brochure	----	----	88
----	Camp Bfochure	----	----	89
----	'Kevin Turner' Golf Links (Placade)	----	----	91
30/5/94	'Kevin Turner" Property - Caretaker Lette	6 Fault	----	92
1/11/91	Haddon Com Hse- 3mths Contined RVA	??	----	96
6/4/93	Haddon Com Hse - Continued Faults	??	----	97
2/2/94	Fax Faults - Solicitor	2 Fault	----	100
21/1/94	Fax Faults - Accountant	5 Fault	----	101
22/4/94	Fax Faults - Austel	3 Fault	----	102

322G

12/5/94	Telecom Fault Report - NDT	3 Fault	FOI	117
12/5/94	Telecom Fault Report - Busy When Not	1 Fault	FOI	119
29/4/94	Telecom Fault Report - 2 Ring Burst	2 Fault	FOI	120
24/5/94	Tekecom Fault Report - 008 & Busy Tone	2 Fault	FOI	124
2/5/94	Telecom Fault Report - 'Contined Faults"	?	FOI	125
18/3/94	Telecom Fault Report - Fax	1 Fault	FOI	126
--/3/94	Telecom Fault Report - Gold Phone	3 Fault	FOI	127
28/2/94	Telecom Fault Report - NNR	1 Fault	FOI	128
12/5/94	Telecom Fault Report - Fax Fault	1 Fault	FOI	129
12/5/94	Telecom Fault Report FAULT FOUND in RCM Common Equip	??	FOI	130
12/5/94	Telecom Fault Report - NNR	1 Fault	FOI	131

322G

13/5/93 to 8/6/94	Telecom Memo - Continued RVA 14 months ***Note: Legal Professional Privilege*** Confirmed Fault RVA Above		FOI FOI	141 142
14/2/94	Telecom Fault Report	1 Fault	FOI	143
27/5/94	Telecom Fault Report - Short Bursts RVA	10 Fault	FOI	144
25/5/94 27/5/94	Telecom Fault Report - RVA + RVA 008	5 Fault 2 Fault	FOI	145
----	Golden Message 60 minutes RVA	1 Fault	FOI	146
----	Telecom Memo - RVA & Cut Off	2 Fault	FOI	147
27/5/94	Telecom Fault Report - RVA	1 Fault	FOI	148
3/11/93	Telecom Admission - RVA Destroying My Business	----	FOI	149
24/5/93	Telecom Letter - Cut Offs Bridgewater	FAULTS	FOI	150
39/5/94	Telecom Memo - 11 Short Bursts + RVA	12 faults	FOI	151
26/5/94	Telecom Memo - Network Confirmed 80 Customers on 055 267 2XX - RVA?	----	FOI	152
----	Telecom CCAS Data Mistakes	10 Fault	FOI	153
25/5/94	Telecom Working Doc. - RVA 80 Custom	----	FOI	154
----	Telecom Letter - Acknowledgement Of RVA Prevalent on AXE Exchanges	----	FOI	155
----	Melaleula Motel Portland Short Duration Incoming 008 Calls	----	FOI	156
----	Telecom Short Duration Calls	?	FOI	168
----	Telecom Short Duration Calls	?	FOI	169

322G

A1

APENDIX CODE

4/5/94	Telecom Fault Report - Locking Up	1 Fault	FOI	S1
10/5/94	Telecom Fault Rep - Misleading Conduct	----	FOI	S2
14/5/94	Telecom Fault Report - RVA	1 Fault	FOI	S3
28/2/94	Telecom Fault Report - Fax 267 230	4 Fault	FOI	S4
2/11/93	Telecom Fault Report - Continuing Faults	3 Fault	FOI	S5
12/3/94	Telecom Fault Report - Continuing Faults	2 Fault	FOI	S6
16/4/94	Telecom Fault Report - Continuing Faults	3 Fault	FOI	S7
16/4/94	Telecom Fault Rrport - Continuing Faults	1 Fault	FOI	S8
7/4/94	Telecom Fault Report - Continuing Faults	2 Fault	FOI	S9
18/4/94	Telecom Fault Report - Fax	2 Fault	FOI	S10
14/4/93	Telecom Fault Rep - Continuing Faults	?	FOI	S11
19/3/94	Telecom Fault Report - Gold Phone	1 Fault	FOI	S12
12/5/94	Telecom Fault Report - Fax	1 Fault	FOI	S13
2/5/94	Telecom Fault Report - Continuing Faults	1 Fault	FOI	S14
25/5/94	Telecom Fault Report - RVA ***80 Customers Cape Bridgewater***	?	FOI	S15
24/5/93	***Austel Letter - RCM 180 Customers*** Conflicting Statements	----	FOI	S16
20/7/94	Telecom Letter - ***Re 50 Customers RCM***	----	FOI	S16b
Nil	Re Telecom Document - ***(Appendix 70)*** ***180 Cust. RCM*** Conflicting Statement	----	FOI	APP70
July 94	***Austel Advises - 75 Customers RCM***			
31/5/94	Telecom Document - RCM Testing Equipment Faulty	?	FOI	S17

322G

A.2

11/5/94	Telecom Fault Report - 2 Burst Fault	2 Fault	FOI	S18
25/5/94	Telecom Fault Report - Fax/4 Burst RVA	4 Fault	FOI	S19
27/5/94	Telecom Fault Report - Fax 1 Burst RBA..	20 Fault	FOI	S20
25/5/94	Telecom Fault Report - RBA	?	FOI	
27/5/94	- RBA	2 Fault	FOI	S21
9/6/93	Telecom Document - RBA	1 Fault	FOI	S23
26/11/93	CCAS Data - Fax	8 Fault	FOI	S24
23/12/93	CCAS Data - Fax	5 Fault	FOI	S25
23/3/94	Telecom Fault Report - NRR	1 Fault	FOI	S26
14/2/94	***Telecom Report - Continued Faults***	?	FOI	S27
4/5/94	***Telecom Report - Continued Faults***	?	FOI	S28
19/3/94	***Telecom Report - Continued Faults***	3 Fault	FOI	S29
14/6/94	***Telecom Report - Continued Faults***	9 Fault	FOI	S30
17/8/93	Telecom Fault Report - 008	1 Fault	FOI	S31
29/3/94	Telecom Fault Report - Busy When Not	2 Fault	FOI	S32
----	Telecom Fault Report - Continuing Faults	9 Fault	FOI	S33
6/3/94	Telecom Fault Report - Ongoing Faults	?	FOI	S34
14/2/94	Telecom Fault Report - Ongoing Faults	?	FOI	S35
26/7/93	David Hawker M.P. - Local Faults	?	FOI	S36
12/5/94	Telecom Fault Report - Busy When Not	1 Fault	FOI	S37
12/5/94	Telecom Fault Report - 2 Bursts	2 Fault	FOI	S38
29/4/94	Telecomb Fault Report (2 days)	4 Fault	FOI	S39
9/9/93	***Telecom Plot***	?	FOI	S40
----	***Telecom Plot*** - Cape Bridgewater	?	FOI	S41

322G

A·3

----	Telecom Memo - 267 267 Lockup	?	FOI	S42
29/4/94	Data 1/Unanswered Calls	33 Fault	FOI	S43
12/11/93	Telecom CCAS Data - Fax	6 Fault	FOI	S44
25/2/94	***Telecom CCAS Data - 99 Test Calls*** ***50 Successful - 49 Busy***	49 Fault	FOI	S45
14/6/94	Telecom Memo - Continued Faults	21 Fault	FOI	S46
----	Telecom Admission of Faults	----	FOI	S47
27/7/92	Telecom Memo - RVA	5 Fault	FOI	S48
7/6/93	CCS7 Data - Dial Out Fault	1 Fault	FOI	S49
	Telecom Memo *August 1991* *Conflicting Statement* *(5 Day Fault) was a* 36 Day Fault	?	FOI	S50
26/4/94	Teleco Fault Report - Continuing Fault	?	FOI	S55
	Telecom Memo - August 1991 - RVA *(Telecom Wording) Telephone* *service 100% better* service 100% better ***Why did it take us 4 years*** *Continued Faults*	*?*	*FOI*	*S57*
----	6 Transmission Muliplex Loop a735/a730 Misleading Statements	----	FOI	S59
----	CCAS Data - Incorrect	----	FOI	S60
----	In & Outgoing Calls Monitoring	----	FOI	S61

322G

INCORRECT BILLING WHEN READ IN CONJUCTION WITH CCAS DATA . . . . . This can be verified by polynerizing the itemized accounts 267 230 & 008 816 522 with the available CCAS & CCS7 data. You will find there are discrepancies in both the seconds of the incoming and outgoing calls. There are also registered calls being charged on both accounts, these however are not registered on the CCAS data. This appendix with both the itemized accounts and available CCAS data can be cross checked by using the information supplied. This exercise is to show both parties in this Arbitration process that the CCAS & CCS7 data has a tendancy to not register all incomming and outgoing calls. This exercise will also show incorrect charging on both accounts.	Approx. No Faults 400 to 450	FOI	B1 to B83
RAW ELMI DATA With the limited access of the raw data which has been made avilable by Telecom, I have been able to substantiate with this limited material, unanswered calls being registered by the ELMI 'as answerred calls' and 'vise versa'. This raw data will show line lock ups as well. With the above mentioned faults and the 5 day raw data appendixed in 'reference 1258 to 1283' from my first submission, the resource team will see from the data at hand there were many lost calls to this Business and likewise incorrect monitoring.	----	FOI	B100/111

9/8/93	267 267 + 267 230 CCS7 Data
9/8/93	267 267 RDF NRR
10/8/93	267 267 + 267 230 CCS7 Data
14/8/93	267 267 + 267 230 CCS7 Data
16/8/93	267 267 + 267 230 CCS7 Data
16/8/93	267 267 + 267 230 CCS7 Data
18/8/93	All lines have problems with calls, calls from Gold Phone cut out INT, Fax's sent to fax number INT not get through.
18/8/93	Horsham, Stawell, Ballarat, Wallacdale, Nth Melb, Rye, Frankston, Sydney, Darwin, Nth Geelong, Geelong, Coburg, Macleod,
18/8/93	Doncaster, Camegie, Harwell, and Melb CBD callers experienced problems ranging from RVA, Dead line, False busy, Static
23/8/93	NRR When calling 006

7/10/92	267 267 INT ANV TBO
8/10/92	267 267 SID 2245
8/10/92	267 267 CCAS data
10/10/92	267 267 CCAS data
12/10/92	Call droped out 5 times between 1 and 2.30pm. Rang 2-4 times, stopped before phone could be answered.
12/10/92	267 267 INT NRR TRO
12/10/92	267 267 CCAS data
15/10/92	267 267 CCAS data
15/10/92	267 267 CCAS data
19/10/92	267 267 AND INT NRR
19/10/92	267 267 CCAS data
20/10/92	FNT FNR
23/10/92	267 260 NDT NRR
29/10/92	267 267 BYO
2/11/92	267 267 CCAS data
2/11/92	267 267 CCAS data
26/5/93	Customer rang NNI indicating problem with callers from Dimboola and Burwood areas (Burwood problem was fax transmission)
26/5/93	267 230 FAX NDT NRR
27/5/93	CCAS on 267 267 until 1/6/93
27/5/93	267 267 CCAS until 07/06/93
27/5/93	267 267 CCAS data
27/5/93	267 267 CCAS data
27/5/93	267 267 CCAS Data
27/5/93	Summary of calls from 27/5 to 8/7/93
16/7/93	267 267 CCS7 Data
17/7/93	267 267 CCS7 Data
18/7/93	267 267 CCS7 Data
19/7/93	267 267 CCS7 Data

Just an example of some of the type of *"Raw Data"* Telecom refused to give to the Cape Bridgewater Camp during this Arbitration Procedure.

322G

3/6/93	267 267 + 267 230 CCS7 Data
3/6/93	267 267 CCS7 Data
3/6/93	267 267 WAV CUS NRR
4/6/93	267 267 CCAS data
4/6/93	RVA x2 reported from 03 859 4786.
4/6/93	267 267 + 267 230 CCS7 Data
5/6/93	Called Ballarat
5/6/93	267 267 CCS7 Data
6/6/93	267 230 CCS7 Data
7/6/93	267 267 CCAS data
7/6/93	267 230 CCAS data
7/6/93	267 267 CCAS data
7/6/93	267 260 CCAS data
7/6/93	RVA to 006 816 522 *2 from 859 4786
7/6/93	267 267 + 267 230 CCS7 Data
7/6/93	267 267 + 267 230 CCS7 Data
8/6/93	Called Ballarat
8/6/93	267 260 CCAS data
8/6/93	267 230 CCAS data
8/6/93	267 267 CCAS data
8/6/93	267 260 CCAS data
8/6/93	267 230 CCAS data
8/6/93	267 267 CCAS data
8/6/93	267 267 + 267 230 CCS7 Data
10/6/93	267 260 CCAS data
10/6/93	267 230 CCAS data
10/6/93	267 267 CCAS data
10/6/93	10 test calls from Mt Eliza
10/6/93	Reported dispute about reminder calls on newly received Billing Information *******Check CCS7 an CCAS
10/6/93	267 267 + 267 230 CCS7 Data
11/6/93	267 230 CCAS data
11/6/93	267 230 CCAS data
11/6/93	267 260 CCAS data
11/6/93	267 267 + 267 230 CCS7 Data
12/6/93	267 267 + 267 230 CCS7 Data
15/6/93	267 267 CCAS Data
15/6/93	267 230 CCAS Data
16/6/93	267 230 CCAS data
16/6/93	Request for Gordon Stokes to test 267 267
16/6/93	Calls from 60 Minutes, callers to 267 267 get high pitched tone and Robert Palmer (Portland)
16/6/93	Rang Palmer
16/6/93	Further reports of high pitched tone on answer.
16/6/93	267 267 + 267 230 CCS7 Data
17/6/93	Caller rang 267 267 got busy
17/6/93	Spoke to Smith re 60 Minutes who could raise him on 267 267 10/06/93
17/6/93	reports of problems for callers from 723 6994 & 848 9482 - couldn't get through.
17/6/93	267 267 + 267 230 CCS7 Data
17/6/93	267 260 CCAS Data
18/6/93	267 260 CCAS data
18/6/93	267 230 CCAS data
18/6/93	267 267 CCAS data
18/6/93	Smith called 006 033 849 from Gold Phone (267 260)
18/6/93	Spoke to Smith re loss of Tx on a call he made from 267 230 - 07 857 8636 60 Minutes (Julian Cress) tried to call 006 816 522

Just an example of some of the type of *"Raw Data"* Telecom refused to give to the Cape Bridgewater Camp during this Arbitration Procedure.

322G

SENATOR THE HON HELEN COONAN

Minister for Communications, Information Technology and the Arts
Deputy Leader of the Government in the Senate

Mr Alan Smith
Seal Cove Guest House
Cape Bridgewater
PORTLAND VIC 3305

13 JUL 2006

Dear Mr Smith

Claims against Telstra

Thank you for participating in the assessment process recently conducted at my request by the Department of Communications, Information Technology and the Arts.

The Department has completed the assessment of claims against Telstra by a number of current or former customers or contractors, and of avenues that may remain available to resolve these disputes. Those avenues in some cases may include the Telecommunications Industry Ombudsman, the Australian Communications and Media Authority, the Australian Competition and Consumer Commission, state or territory fair trading agencies, and the courts.

The Department has provided me with its report on the assessment, which includes an executive summary and reports on each of the participating claimants. I have enclosed the individual report on your particular case along with the executive summary that provides an overview of the assessment process and general findings.

I will also be making direct representations to Telstra regarding all of the claims of former customers or contractors who participated in the assessment process.

I trust that the assessment report will assist you with possible avenues that may be available to resolve any remaining areas of disagreement that you have with Telstra.

Yours sincerely

HELEN COONAN

323

Parliament House Canberra ACT 2600 **Telephone**: (02) 6277 7480 **Facsimile**: (02) 6273 4154 www.minister.dcita.gov.au

REPORT ON THE INDEPENDENT ASSESSMENT OF CLAIMS AGAINST TELSTRA

DEPARTMENT OF COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS

April 2006

EXECUTIVE SUMMARY

This report provides information to the Minister for Communications, Information Technology and the Arts concerning the processes and outcomes of the independent assessment of certain claims against Telstra Corporation Limited (Telstra) undertaken by the Department of Communications, Information Technology and the Arts (the Department).

This report has been prepared in accordance with the Minister's request for the Department to undertake an assessment of existing disputes between Telstra and its current or former customers or contractors.

Background

On 22 December 2005, the Department sent letters to each of the claimants on the list provided by the office of Senator Barnaby Joyce. The letters provided information on the assessment process and requested that claimants notify the Department by 3 February 2006 if they wished their cases to be examined as part of the assessment process. A copy of the letter is at Attachment A.

Ten claimants initially accepted the Department's offer. One claimant subsequently withdrew from the assessment process.

Scope of assessment

Consistent with the Department's letter of 22 December to the claimants, the assessment was to examine:

(1) the claims made by the claimant, the responses made by Telstra and Telstra's current position, whether the claimants have already received compensation in relation to their dispute(s), and the extent of that compensation;

(2) what dispute resolution mechanisms have been used or considered by the claimants; and

(3) what further relevant processes or avenues, if any, are available to the claimants to seek resolution of their claims.

The Department was to have regard to:

(a) information provided by the claimant and relevant information held by the Department or the Minister where the claimant agreed to this information being used;

(b) information provided by Telstra at the Department's request and relevant information held by the Department or the Minister that is not confidential (or such information that is confidential where Telstra has agreed to the information being provided);

(c) information provided by the Telecommunications Industry Ombudsman or other bodies at the Department's request; and

(d) any other relevant information.

The Department's letter stated that the aim of the assessment was to identify ways in which the claimants could progress their claims within the existing dispute resolution framework that is available.

The findings or comments made in this report should not be taken as the provision of legal advice or to have any legal effect.

Mechanisms available to claimants

Avenues of assistance available to consumers in the telecommunications sector include the Telecommunications Industry Ombudsman (TIO), the Australian Communications and Media Authority (ACMA), the Australian Competition and Consumer Commission (ACCC) and state or territory fair trading agencies. Consumers in the telecommunications sector may also be able to bring legal proceedings in the Courts to enforce their rights or resolve their grievances with their telecommunications providers.

The TIO was established in 1994 as a free service to residential and small business consumers who have been unable to resolve a complaint directly with their telephone company or internet service provider. The cost of the scheme is borne by these companies, which are required by law to be part of, and pay for the scheme. The TIO is independent of government and industry interests.

The TIO has a wide jurisdiction. Complaints it is authorised to investigate include those about the standard telephone service, mobile services, Internet access, payphones, delays in telephone connections, printed and electronic *White Pages*, fault repair, privacy, land access, breaches of the Customer Service Guarantee and industry codes of practice.

The TIO will investigate complaints where the circumstances causing the complaint became known in the twelve months prior to the complaint being made. The TIO has discretion to extend the time limit a further 12 months in certain cases.

The TIO may make binding directions, up to a cost limit of $10,000, that the company provide a service or services, does not impose a charge, amends a charge, supplies certain goods or services or carries out or ceases some action. It may alternatively determine that the company pay compensation to the consumer. The TIO also has a

power to make a recommendation to a telephone company or service provider to compensate or take some other action up to a limit of $50,000. Recommendations are not binding on service providers.

Telecommunications service providers are subject to telecommunications legislation, including the *Telecommunications Act 1997* and the *Telecommunications (Consumer Protection and Service Standards) Act 1999*, and subordinate legislation, including Determinations, made under this legislation. They are also bound by various industry codes of practice and industry standards. Complaints or concerns about possible breaches of the telecommunications legislation may be lodged with ACMA, which has responsibility for enforcement.

ACMA also has certain functions and powers under the telecommunications legislation that may be relevant to allegations of poor service by Telstra. For example, ACMA may conduct investigations into certain matters relating to telecommunications and also has a function of reporting to and advising the Minister about matters affecting consumers of carriage services.

Telecommunications service providers are also subject to the consumer protection provisions in Parts IVA and V of the *Trade Practices Act 1974*. Consumers who consider that a service provider has breached these provisions could consider contacting the ACCC, which administers the Trade Practices Act. The ACCC has, however, advised that its consumer protection focus is generally on national issues and those localised issues that have wide public interest implications, with priority given to cases where broad economic and consumer detriment is evident. The ACCC advised that it does not act on behalf of individual complainants but rather determines its priorities and allocates its resources for the benefit of the Australian community in general. The ACCC cannot provide legal advice or mediate between individuals and the suppliers or acquirers of goods and services.

The ACCC also administers Part IV of the Trade Practices Act, dealing with restrictive trade practices. These provisions may also be relevant in the case of the claimants who have been former contractors of Telstra.

State or territory fair trading agencies administer state or territory legislation concerning fairness of business practices. This legislation may also be relevant to the extent that it extends to telecommunications services.

In addition to the above mechanisms, a person with an unresolved dispute or claim may have remedies available through the Court system, for example for breach of contract. However, this would depend on the individual circumstances in each case and before taking any Court action, it is advisable to seek independent legal advice.

Assessment methodology

The assessment was conducted by staff of the Telecommunications Consumer Policy Section of the Department.

A high-level Executive Steering Group, comprising the Deputy Secretary Communications, Chief General Manager Telecommunications and General Manager Telecommunications Competition and Consumer, oversighted the assessment process.

Upon receipt of notification from each claimant indicating acceptance of the Department's offer, the Department provided written confirmation to the claimant of the inclusion of their case in the assessment. The Department then commenced information searches from relevant sources, and identification and examination of existing Departmental records.

Information was sought and obtained from various parties as relevant to each case. These parties included the respective claimant(s) or their authorised representative, Telstra, the TIO, ACCC and ACMA.

Issues Examined in Assessing Cases

Claim
A description of what the claimant alleges to have happened and the outcome(s) sought by the claimant.

Information provider
A description of the sources from whom information to assist in the Department's examination of issues relevant to each case was sought and obtained.

Telstra response
A description of Telstra's response to the claim, including any action taken.

Telstra's current position
A description of Telstra's current position in response to the claim, based on advice obtained from Telstra.

Compensation received
Information concerning any compensation received by the claimant from Telstra, including the amount of that compensation and a description of any terms on which it was paid.

Dispute resolution mechanism(s) used / considered
A description of any dispute resolution mechanisms used or considered, and if so the outcomes of those processes.

Status of claim
A description of where the claim currently stands, including whether there are any Court proceedings or other dispute resolution mechanisms pending.

Potential dispute resolution mechanisms available
A description of any dispute resolution mechanisms that remain open for consideration by the claimant. Issues considered included whether the nature of the claim fell within the jurisdiction of the relevant dispute resolution mechanism.

Other avenues for consideration
A description of any other avenues not normally regarded as dispute resolution mechanisms that may be relevant for claimants to consider in attempting to resolve their concerns.

Findings

The Department notes that there were broadly two types of dispute: between Telstra and small business customer; and between Telstra and contractor. In one case the small business customer was itself a telecommunications provider.

Potential dispute resolution mechanisms or avenues for redress vary according to the type of dispute. For example, the TIO may investigate disputes between telecommunications providers and customers, where those customers are either individuals or small businesses. However, the TIO does not have jurisdiction over "intra-industry" matters. This means that the TIO does not have jurisdiction in the case of the small business customer that was itself a telecommunications provider. The ACCC is more likely to be of assistance where there is a potential breach of the Trade Practices Act that has nationwide implications. ACMA is more likely to investigate where it appears consumers are being adversely affected by a systemic issue or there is an apparent breach of legislation.

The Department found that claimants generally appear to have availed themselves of the dispute resolution service afforded by the TIO, where the TIO has jurisdiction with respect to their claim.

Similarly, claimants have generally availed themselves of the ACCC's advice or other assistance where the ACCC is the most relevant agency to the claimant's concern.

None of the claimants appear to have sought assistance from state or territory fair trading bodies and only one of the claimants has raised concerns or lodged a complaint with ACMA or its predecessor, the Australian Communications Authority.

The Department considers that it may be open to some claimants to consider initiating contact with, or re-contacting, one or more of the organisations referred to above. Comment or suggestion in this regard is provided in the reports on individual cases. If claimants wish to explore the mechanisms or avenues identified, they could contact the relevant organisation to ascertain whether it is able to investigate the claims and attempt to resolve concerns, subject to any jurisdictional or statutory considerations. The Department is unable to comment on the likelihood of recourse to the relevant organisation resulting in what the claimant might regard as a satisfactory outcome.

If claimants are considering commencing legal proceedings against Telstra, they should seek legal advice about the prospects of making a successful claim against Telstra and the risks associated with the commencement of legal proceedings. The findings or comments made in this report should not be taken as the provision of legal advice or to have any legal effect.

The Department notes that it is ultimately up to the claimants and Telstra to determine their own courses of action.

Before embarking on any course of action in an attempt to resolve their dispute with Telstra, claimants may wish to seek independent legal advice.

The findings or comments made in this report should not be taken as the provision of legal advice or to have any legal effect. The Department accepts no liability, however arising, in relation to any findings, action or comments made during the assessment process.

CLAIM

The claimant describes telecommunications failures from 1988 including:

- billing faults with the 008/1800 line and fax services caused by short duration calls and post dialling delay faults; and
- technical faults, including call drop out, no ring received, false busy signal to callers, 'no longer connected' recorded voice announcements and crossed lines.

The claimant contends that these problems resulted in significant business and financial losses, and led to ongoing health problems due to associated stress. The claimant also attributes his failure to sell the business in 1995 to the faults.

The claimant is seeking to have his case further investigated. He alleges the Fast Track Arbitration Process (FTAP) administered by the Telecommunications Industry Ombudsman (TIO) was flawed. The claimant asserts that the TIO-appointed technical consultants (DMR & Lanes) were not given adequate time to complete their investigations and, as a result, evidence used in the arbitration process was misleading and inaccurate. The claimant further asserts that false information was provided by Telstra during the arbitration process.

The claimant also claims that the billing faults were not investigated or addressed by the Arbitrator during the process.

The claimant claims that the faults associated with this complaint continued after the TIO had deemed the arbitration process to be complete.

The claimant seeks re-assessment of the circumstances surrounding his arbitration, and seeks further financial compensation.

INFORMATION PROVIDER(S)

Information was sought and obtained from the claimant and from Telstra. Information was also obtained from existing Departmental records.

The following information was received from the claimant during the period of the assessment process. Unless otherwise indicated, the correspondence was addressed to officers of the Department. The claimant was advised that material provided after 17 March could not be considered.

2 February 2006
Letter agreeing to participate in an Independent Commercial Assessment process but expressing concern about the 'independence' of the proposed process to be undertaken by the Department. This letter also included the copy of a fax sent from the Department to the TIO seeking advice on a likely time-frame for finalising the claimant's claim of overcharging on his 1800 number.

23 February 2006
Letter from the claimant seeking clarification of aspects of the Independent Assessment process and outlining various aspects of his previous arbitration. Attached to this letter is a Statutory Declaration concerning the content of the documentation used during the arbitration process.

27 February 2006
Letter from the claimant outlining the reasons for his objection to the inclusion of Telstra and the TIO in the Assessment process.

2 March 2006
Letter from the claimant accepting the Department's offer in its letter of 22 December 2005. The letter also contains information responding to the Department's request for information, namely a description of his claim and Telstra's response to the claim; compensation received and conditions applied to that compensation; an outline of any dispute resolution mechanisms used or considered; and a description of the current status of the claim.

3 March 2006
Letter enclosing copy of postage registration for overnight mail sent 2 March 2006. This letter also requested that the claimant be informed of when his formal submission and supporting documents needed to be delivered to the Department, as he intended to travel from Cape Bridgewater to Canberra to deliver them in person.

6 March 2006
Two letters, marked 'Letter A' and 'Letter B'

- Letter A clarified a statement made by the claimant in his earlier correspondence of 2 March 2006, regarding the compensation received by the 'A' list of CoT claimants as a result of the Senate Working Party in 1998.
- Letter B provided additional information concerning aspects of the claimant's earlier arbitration, and attaching a copy of the TIO's statement of 26 Septemer 1997 to the Senate Environment, Recreation, Communications and the Arts Reference Committee.

9 March 2006
Letter to the Minister, concerning aspects of the claimant's earlier arbitration.

10 March 2006
Letter concerning the scope of the assessment process and asking whether evidence of unlawful acts relating to Telstra would be reported to the Attorney-General's Department.

11 March 2006
Letter to the Minister, concerning issues raised by the claimant in his letter of 10 March 2006 to the Department.

12 March 2006
Letter from the claimant, attaching copies of his letter of 11 March 2006 to the Minister, expanding on issues raised in his letter of 10 March 2006, seeking expansion of the Terms of Reference, and requesting clarification on the type of information applicable to the current Terms of Reference.

16 March 2006
Covering fax received with two letters (dated 16 March 2006) attached.

- Letter responding to Department's request for clarification of compensation received by the claimant from Telstra.
- Letter explaining why the claimant considers that the Terms of Reference for the Independent Assessment process are not wide enough. The letter also includes two detailed examples of what the claimant considers to be the 'unethical and unlawful events' that occurred during the arbitration process.

16 March 2006
Further letter from the claimant, attaching three sets of documents titled *Section 1 - Introduction to Letter of Claim, Appendices - File One - Billing Issues,* and *Appendices One to Four - File Three Title Arbitrator's Award.* Also included was a chronology of events relating to an earlier document submitted by the claimant. The claimant also lodged, by way of this letter, a complaint against the Department for not responding to the request for clarification contained in his letter of 12 March 2006.

17 March 2006
Email responding to the Department's query regarding payments that the claimant received through the arbitration process in 1994.

18 March 2006
Email providing information additional to that advised on 17 March.

21 March 2006
Three letters dated 18 March 2006 received by Express Post envelope (ref. BV1959254), labelled 'Letter One', 'Letter Two', and 'Letter Three'.

- Letter One relates to the deadline for submission of documents to the Department for the assessment process and the time he was given to prepare his submission. The letter also details the claimant's concerns regarding the conduct of Telstra during the arbitration.
- Letter Two details the claimant's concerns about "known false reporting by Telstra" and provides three examples. Enclosed with this letter, titled 'Evidence Seven', is a Memorandum of Advice from Associate Professor Suzanne McNicol for Ann Garms and Ross Plowman.
- Letter Three provides further examples in support of letters one and two. Enclosed with letter three are the Arbitrator's copy of procedural documents, and

a separate document that is Telstra's and the claimant's copy of the procedural documents used in the arbitration. Also enclosed was a Telstra file note from 1994 on the arbitration.

21 March 2006
Courier box of documents (Connote: JKD00015, Order No: S15428178), despatched on 17 March 2006, received by the Department. This box contained a covering letter (dated 16 March 2006) and three large bundles of documents labelled 'File Two', 'File Three', and 'File Four' containing appendices and attachments. The claimant advised in the covering letter that these documents are photocopied excerpts from the fourteen original files that he had proposed to deliver to the Department in person.

21 March 2006
Letter of complaint to the Minister about the 'unreasonable pressure applied by DCITA' in relation to timeframes for the supply of documentation.

23 March 2006
Email from the claimant advising that he will not forward any further material for consideration in the assessment, unless requested to do so by the Department.

28 March 2006
Email attaching a letter seeking the Department's advice as to whether a further document would be accepted, despite the closure of the period for provision of supporting material on 17 March 2006.

29 March 2006
Email correcting a minor typographical error in the letter that was attached to the email of 28 March 2006.

29 March 2006
Letter to the Minister regarding aspects of his earlier arbitration and attaching a copy of the claimant's letter of 28 March 2006 (corrected version).

31 March 2006
Two letters received.
Letter 1 dated 31 March 2006 regarding the terms of reference for the Independent Assessment and arguing that a document drafted in 1994 by the arbitrator in his case be considered in the assessment.

Letter 2, mistakenly dated 31 April 2006, regarding Mr Smith's concerns that, in the claim material submitted by Mr Smith, the Department had not uncovered any evidence of a perversion of the course of justice.

3 April 2006
Letter correcting a date error in Letter 2 dated 31 April 2006 that should have been 31 March 2006.

7 April 2006
Letter advising of an additional legal professional who had provided legal advice to Mr Smith.

9 April 2006
Letter to the Minister and others, copying the Department, regarding Mr Smith's concerns about a perversion of the course of justice during the arbitration of his claim in 1994 and 1995. Included with this letter is a copy of the Resource Unit Technical Evaluation Report dated 30 April 1995.

17 April 2006
Letter detailing the claim material submitted by Mr Smith that he believes clearly provides evidence of a perversion of the course of justice during the arbitration of his claim.

19 April 2006
Letter to the Minister regarding his concerns that the assessment panel had not found evidence in his claim material indicating a perversion of the course of justice.

This correspondence was addressed by responses from the Department or the Minister's Office, where appropriate.

The Department found that much of the material provided by Mr Smith was outside of the scope of the assessment.

TELSTRA RESPONSE

The claimant alleges that from 1988 to 1992, Telstra refused to acknowledge that there were any major problems with his phone system. The claimant states that Telstra agreed to investigate his complaints after discussions with the former regulator, AUSTEL.

The claimant states that during the AUSTEL investigations in September 1992, Telstra provided the claimant with two written guarantees that there were no ongoing problems with his service.

Telstra submitted to the arbitration processes administered by the TIO. Further information is detailed under the "Dispute resolution mechanisms used/considered" section below.

TELSTRA CURRENT POSITION

Telstra has advised that it considers this claim to have been finally resolved. See further details under the "Dispute resolution mechanisms used/considered" section below.

COMPENSATION RECEIVED

Telstra has advised that in accordance with the terms of an initial settlement agreement executed in December 1992, it paid the claimant $85,000 in final settlement of all claims to that date without any admission of liability.

Telstra has further advised that under the FTAP, Telstra was ordered to pay the claimant $320,000 and to write off debts owed by the claimant to Telstra totalling $16,679. Telstra has advised that it complied with the binding arbitration award. Telstra has advised that the claimant retained the $85,000 paid under the previous settlement.

The claimant has confirmed that he received $320,000 in compensation. The TIO also awarded an additional $100,000 to the claimant for costs associated with his participation in the arbitration process. These funds were made available by Telstra.

The original claim made by the claimant was for $3.459 million.

DISPUTE RESOLUTION MECHANISM(S) USED / CONSIDERED

Two formal dispute resolution mechanisms have been used by the claimant:

- AUSTEL Fast Track Settlement Proposal (FTSP) signed in November 1992, which did not produce a conclusive result for the claimant.
- AUSTEL Fast Track Arbitration Process (FTAP) signed April 1994, which was completed with findings in favour of the claimant.

Telstra has advised that an initial settlement agreement was executed in December 1992 to settle all claims to that date with no admission of liability from Telstra.

Telstra has also advised that, in April 1994, it submitted to the FTAP administered by the TIO and conducted by Dr Gordon Hughes. Telstra has advised that the findings of this process were in the Claimant's favour (refer details in 'Compensation received' section above).

STATUS OF CLAIM

The claimant continues to seek the reopening of his case. The claimant has advised that he has prepared a writ, but has put its submission on hold pending the outcome of this assessment process.

Telstra has advised that it regards the claimant's claim as finally resolved.

Departmental records indicate that the TIO considers that he has completed his tasks as the administrator in the claimant's dispute against Telstra, and that the claims raised by the claimant have been investigated fully by the arbitrator during the arbitration process. The TIO considers that no new evidence has been provided to support a reassessment of the claimant's case.

POTENTIAL DISPUTE RESOLUTION MECHANISMS AVAILABLE

While the assessment is intended to identify whether any further dispute resolution processes may be available to the claimants and Telstra in order to resolve their disputes, Telstra's response is ultimately a matter for the company to determine. Before embarking on any course of action in an attempt to resolve his dispute with Telstra, the claimant may wish to seek his own independent legal advice. The

findings or comments made in this report should not be taken as the provision of legal advice or to have any legal effect.

The claimant has previously had his dispute against Telstra comprehensively examined by arbitration, under the administration of the TIO, with a ruling made in his favour. The TIO considers that he has completed his tasks as the administrator in the claimant's dispute against Telstra, and that the claims raised by the claimant have been investigated fully by the arbitrator during the arbitration process. The TIO considers that no new evidence has been provided to support a reassessment of the claimant's case. Given this and the long period since the arbitrator made his decision, there is no basis on which the TIO would revisit this dispute. However, should the claimant have new issues of complaint that post-date the claims that were the subject of the arbitration, and which have not previously been examined by the TIO, the claimant could consider re-contacting the TIO. It would then be a matter for the TIO to decide whether it is in a position to consider the matters, given available evidence and jurisdictional limitations including timeframes.

The claimant could consider whether any of the complaint or dispute resolution mechanisms outlined below apply in his case. Should the claimant wish to explore these mechanisms, he could contact the relevant organisation to ascertain whether it is able to investigate his claims. Should the claimant wish to consider litigation against Telstra, he should seek his own legal advice. It is ultimately up to claimants and Telstra to determine their own courses of action and to come to a final resolution on individual disputes. The Commonwealth does not undertake to provide compensation should disputes remain unresolved.

Legal proceedings
Should the claimant wish to consider legal action against Telstra, he should seek his own legal advice on how he may pursue this matter.

OTHER AVENUES FOR CONSIDERATION

State or territory fair trading agencies
The claimant could consider contacting Consumer Affairs Victoria. Further information can be obtained by telephoning 1300 55 81 81 or from http://www.consumer.vic.gov.au.

Australian Competition and Consumer Commission (ACCC)
The claimant could consider contacting the Australian Competition and Consumer Commission (ACCC). However, the claimant should take into account that the ACCC's consumer protection focus is generally on national issues and those localised issues that have wide public interest implications, with priority given to those cases where broad economic and consumer detriment is evident. It is noted that the ACCC does not act on behalf of individual complainants, but rather determines its priorities and allocates its resources for the benefit of the Australian community in general. The ACCC cannot provide legal advice, or mediate between individuals and the suppliers or acquirers of goods and services. Further information may be obtained by telephoning the ACCC's Information Centre on 1300 302 502 or from http://www.accc.gov.au.

Australian Communications and Media Authority (ACMA)
The claimant could consider contacting the Australian Communications and Media Authority (ACMA). However, he should take into account the disinclination of ACMA to investigate individual, rather than systemic complaints, particularly if no breach of the legislation is apparent, and the time that has elapsed since the circumstances of his case became apparent.

Attachment A

Australian Government

Department of Communications, Information Technology and the Arts

our reference

Name
Address
City State Postcode

Dear Name

Independent assessment of claims against Telstra

I am writing to you because I understand that you have made claims in the past against Telstra and these claims have not yet been resolved.

Senator Helen Coonan, Minister for Communications, Information Technology and the Arts, has asked this Department to undertake an assessment of existing disputes between Telstra and its current or former customers or contractors, and to advise her of the status of these disputes.

Senator Coonan has asked us to identify what further processes, if any, are available to assist claimants (such as yourself) to finally resolve disputes that are still outstanding. In particular, we will seek to identify ways in which claimants can progress their claims within the existing complaint and dispute resolution framework that is available in the telecommunications sector and more generally.

It is to be hoped that where additional steps can be taken to resolve disputes, claimants will be encouraged to do so and to finalise these matters in conjunction with Telstra.

I am writing to ascertain whether you wish to have your case included as part of this assessment process. I have attached some information that explains the process in more detail.

If you do wish to avail yourself of this process, it is important to note that the Department will not be providing legal advice, and findings or comments made by the Department during the course of the process should not be taken as the provision of legal advice or to have any legal effect. In addition, the Department will accept no liability, however arising, in relation to any findings, action or comments made during this process.

323

GPO Box 2154 Canberra ACT 2601 Australia • telephone 02 6271 1000 • facsimile 02 6271 1901
email dcita.mail@dcita.gov.au • website http://www.dcita.gov.au

The assessment is intended to identify whether any further resolution processes may be available to be pursued by claimants and Telstra in order to resolve their disputes. Telstra's response would be a matter for the company to determine and, before embarking on any course of action in relation to resolving your dispute with Telstra, you may wish to seek independent legal advice.

You should also be aware that if you choose to take part in the assessment process, the Department may need to provide your personal information (such as your name and contact details) to Telstra, the Telecommunications Industry Ombudsman and other parties.

The Department envisages being able to complete its assessment by 31 March 2006 or as soon as practicable thereafter, and a report will be provided to the Minister.

It will then be a matter for the Minister to make the report's findings available to individual claimants and Telstra. The Minister recognises that many of these disputes have remained unresolved for years and that resolving them will allow claimants to get on with their lives. To that end, she is concerned that claimants have this opportunity to see whether any additional process is available to assist in finalising claims. However, it will be up to claimants and Telstra to determine their own courses of action and to come to a final resolution on individual disputes. The Commonwealth does not undertake to provide compensation should disputes remain unresolved.

Should you wish your case to be assessed as part of this process, please provide notification by close of business Friday, 3 February 2006 in writing to:

The Manager
Telecommunications Consumer Policy
Department of Communications, Information Technology and the Arts
GPO Box 2154
CANBERRA ACT 2601.

Alternatively, you can send your notification by email to: claim.assessor@dcita.gov.au.

Once your notification has been received, you will be contacted by the Department and given the opportunity to provide information relating to your claim.

Yours sincerely

[signed 22 December 2005]

SIMON BRYANT
General Manager
Telecommunications Competition and Consumer Branch

December 2005

FURTHER INFORMATION ON ASSESSMENT PROCESS

The Department of Communications, Information Technology and the Arts will be undertaking an assessment of existing disputes between Telstra and its current or former customers or contractors.

A high level Steering Group, comprising the Deputy Secretary Communications, Chief General Manager, Telecommunications and General Manager, Telecommunications Competition and Consumer will oversee the assessment.

The assessment will determine the status of these disputes and identify what further resolution processes, if any, are available to the claimants and Telstra to finally resolve disputes that are outstanding. In particular, the aim is to identify ways in which claimants can progress their claims within the existing dispute resolution framework that is available.

The assessment will examine:

(1) the claims made by the claimant, the responses made by Telstra and Telstra's current position, whether the claimants have already received compensation in relation to their dispute(s), and the extent of that compensation;

(2) what dispute resolution mechanisms have been used or considered by the claimants; and

(3) what further relevant processes or avenues, if any, are available to the claimants to seek resolution of their claims.

In conducting the assessment, the Department will have regard to the following:

(a) information provided by the claimant and relevant information held by the Department or the Minister where the claimant agrees to this information being used;

(b) information provided by Telstra at the Department's request and relevant information held by the Department or the Minister that is not confidential (or such information that is confidential where Telstra has agreed to the information being provided);

(c) information provided by the Telecommunications Industry Ombudsman or other bodies at the Department's request; and

(d) any other relevant information.

In conducting the assessment, the Department may need to provide personal information about claimants to Telstra, the Telecommunications Industry Ombudsman and other parties