INTERIM FTSP CLAIM — SENT 30TH JANUARY

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.

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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.

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

AUSTEL

AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

92/0596(8)

27 January 1994

Mr S Black
Group General Manager -Customer Affairs
TELECOM

Facsimile No: (03) 632 3241

Dear Mr Black

ISSUES RAISED BY MR ALAN SMITH - CAPE BRIDGEWATER HOLIDAY CAMP

Mr Alan Smith has recently raised a number of issues relating to his service generally and to his 008 service. AUSTEL requests that you investigate and report on the issues raised by Mr Smith as detailed below. The 008 issues relate to the period covered by Mr Smith's most recent bill. A copy of the relevant page of this bill is attached with this letter.

(1) Mr Smith's 008 bill records 4 calls made on 5 January 1994 from the origin 05521. These call were made between 4.29 & 4.39 pm. Mr Smith states that he did not receive these calls. He has investigated the matter himself and established that the calls were made from 055 212 671, being the facsimile number of the Portland Tourist Bureau. Evidently the Manager of the Tourist Bureau, Ms Burch, tried to send a facsimile to Mr Smith on the wrong number. Mr Smith states he did not receive these calls on the date and time in question, and is adamant that no calls with a fax tone were answered by him on this date. He is 95% sure that his phone did not ring on the date and time in question.

In responding to this issue, can you please address the possibility that calls may have been incorrectly switched elsewhere in the network than Cape Bridgewater Holiday Camp, and that the charging system servicing Mr Smith is operating inaccurately.

(2) Mr Smith's 008 bill records 3 calls made on 13 January 1994 around 1.50 pm from the origin 03 580. These calls were all of short duration, being respectively of 4, 8 and 20 seconds duration. Mr Smith has stated that Tina Velthuyzen (telephone number 03 580 4710) rang Mr Smith once on his 008 number on 13 January around 1.50 pm, conversing for approximately 10 minutes. (Two calls were also made by Ms Velthuyzen at 11.38 am and 11.46 on 13 January - there is no dispute with these calls.) Mr Smith has

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stated that Ms Velthuyzen will corroborate his statement of the call made at 1.50 pm. Mr Smith is concerned with the integrity of the 008 billing system, as the bill data does not correspond with Ms Velthuyzen's and his recollection of calls made at this time.

(3) Mr Smith's 008 bill records a call made on 16 January at 7.23 pm of duration 16 minutes 24 seconds. Smith said he has no recollection of this call and questions whether it was made.

In responding to this issue, can you please provide the full telephone number of the party making the call to Cape Bridgewater at this time and date.

(4) Mr Smith has also sought advice as to whether his service has been subject to either recording or voice monitoring at any time and, if so, when and for what purpose.

(5) Mr Smith is preparing his fast track settlement claim. An aspect of this apparently involves the identification of two test calls included in a previous bill. At Mr Smith's request the identification of the Telecom personnel who made these calls was sought by AUSTEL in a letter dated 15 October 1993 but was declined by Mr Pinel on the grounds "that further detail as to the purpose and intent of this information" was required before identification would be considered. (Letter dated 8 November 1993.) Regardless of the rights or wrongs of that decision, Mr Smith now seeks a statement from Telecom that its personnel did make these calls at the time and for the duration shown - for this purpose the identification of the personnel is not required.

(6) Finally, regarding the ELMI tape left inadvertently at his premises, Mr Smith has asked the significance of the arrows drawn on the tape and for a statement of the quality of service for the seven days in question.

Can you please respond to the matters raised in this letter by 4 February 1994. If you have any queries on matters raised in this letter, please contact Bruce Matthews on 628 7443.

Yours sincerely

John MacMahon
General Manager
Consumer Affairs

cc Mr A. Smith

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I, TINA VELTHUYZEN

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of 15/23 GOVERNOR RD MORDIALLOC in the State of Victoria do solemnly and sincerely declare

THAT On the 8th of January I called Cape Bridgewater Holiday Camp on 0058165222 seven times one after the other but the number was engaged. However when I called the eighth time I got a recording telling me the number was not connected I did dial again & got through when I told the owner of the camp this he asked me to ring John McMahon at Austel who was not available I did however speak to Mr Matthews who asked me to tell him exactly what happened I did this. Mr Matthews then rang back - asked me to report the fault to Telecom Business fault which I proceeded to do.

T Velthuyzen

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

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

T Velthuyzen

Before me

R. OWEN

468.

2060

05-01-94 15:39 217287 PORTLAND TOURIST ASSOC 307 P01

Portland
— Victoria's Birthplace —
1834

City of Portland
Municipal Offices
Charles Street.
Portland, 3305.
P. O. Box 152

Telephone (055) 22 2200
Fax No. (055) 22 2290
AUSDOC No. DX 30509

City of Portland

In reply please quote:

Ref.

FACSIMILE COVER SHEET

TO: ALAN SMITH
FAX (008) 81 6522

FROM: CARRIE BURCH
Manager, Portland Tourist Information Centre
FAX (055) 21 7287
Ph. (008) 03 5567

PAGES: 1 OF 1

DATE: 5 JANUARY 1994

MESSAGE:

After hearing of your problems with Telecom and the 008 number, I became aware of similar problems here at the Tourist Centre in Portland. I have received calls from people on our regular number, stating that they have been trying to call on the 008 number - receiving a recorded message to the effect of "This number has been disconnected, call the operator to check the number before trying again." Also, our number has been given out by directory as the 008 number for several other tourist centres. These range from Port Macquarie, Tasmania, and also South Australian tourist offices, among others. I hope this information is useful with your efforts to fix the system.

Carrie

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000762

95/0603-01

AUSTEL

AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

103

92/0596(8)

6 January 1994

Mr S Black
Group General Manager -
Customer Affairs
TELECOM.

Facsimile No: (03) 634 8444

Dear Mr Black

COT Cases - Mr A Smith

You are probably aware of Mr Smith's ongoing complaints as to the efficacy of his 008 service - he maintains that many callers receive a RVA advising that the number is no longer connected. This has been an issue in the Bell Canada study.

Further to that point is the experience of the Portland Tourist Information Centre which is now complaining of precisely the same problem. It is understood that these issues gained prominence after a considerable incidence of problems from various points throughout Australia following a nation-wide promotion of south western Victoria. A copy of a fax from the Centre is attached. You may wish to consider this issue further.

Yours sincerely

John MacMahon
General Manager
Consumer Affairs

Encl:

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TELECOM IN CONFIDENCE

research
An update to previous correspondence. T. Hindson 6/12/9

Internal Memo

Telecom AUSTRALIA

3- DEC 1993

To Trevor Hindson
Special Case Investigation Coordinator

From Rod Hurman
Manager, Charging and Billing Projects

Subject Short Duration Calls, Mr A. Smith.

Date 25 November 1993

File

Attention

Corporate Centre
Charging and Billing Directorate - Brisbane

6/131 Barry Parade
Fortitude Valley, 4006

Australia

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

K00751

Ms Ann Lau

Trevor,

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

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

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

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

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

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

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

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

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

1. **Calls to Traralgon, being charged on busy.**

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

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

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

3. **Calls to RVA.**

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

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

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

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

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

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

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

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

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AUSTEL

AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

94/0269

4 October 1994

Mr S Black
Group General Manager
Customer Affairs
TELECOM

Facsimile No: (03) 632 3241

Dear Steve

CHARGING DISCREPANCIES REPORTED BY ALAN SMITH AND ISSUES RELATED TO SHORT DURATION CALLS ON 008 SERVICES

Mr Alan Smith of Cape Bridgewater Holiday Camp has recently written to AUSTEL complaining of a number of charging discrepancies occurring on his 008 service. A copy of Mr Smith's letter is attached, as is an accompanying sheet which contains 008 bill data over the period 27 May to 29 May 1994 in comparison with other incoming call monitoring data over the same period.

Mr Smith has previously raised some of the issues identified in his letter with AUSTEL but had requested that AUSTEL not take them up on his behalf as he was concerned they may conflict with his "Fast Track" Arbitration process. AUSTEL seeks a response on the following issues.

(1) Mr Smith states that a caller to his 008 number experienced 3 occurrences of a "not connected" recorded voice announcement (RVA) on 27 May 1994 between 7:51 pm and 7:59 pm. Mr Smith states that "these faults" were reported to Telecom's 1100 number. AUSTEL requests that Telecom provide details on the investigations made into the fault report(s) and any findings made on this issue.

(2) Was Mr Smith informed of the results of any investigations conducted in regard to the RVA report(s) identified in (1)? If not, why not?

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(3) AUSTEL notes that regardless of Telecom's findings on the RVA issue identified in (1), there appears to be a significant discrepancy between the duration of one call identified on the 008 bill and the duration of that call as identified on the "monitoring data". The relevant call appears on the 008 bill against the code "23-9" and is logged as being of 3 minutes 15 seconds duration. On the "monitoring data" what appears to be the same call, made on 27 May 1994 at 19:58:46, is logged as being of 2 minutes 46 seconds duration. AUSTEL requests that Telecom explain this discrepancy if this issue has not been dealt with in the reply to (1).

(4) Mr Smith's bill for his 008 service details one call (code 23-12) as being of 1 second duration. The call data has no information detailing the origin of the call. AUSTEL requests that Telecom explain the circumstances which may have led to this "short duration" call and why no data is provided on the origin of the call.

(5) AUSTEL is aware of another Telecom customer in the Portland region, Mr Jason Boulter of the Malaleuca Motel (008 034 449), who maintains that many "short duration" calls are occurring on his 008 bills. This customer suspects that these "short duration" calls represent call attempts by potential clients to contact his business which are not received at his premises. AUSTEL requests that Telecom provide a comprehensive explanation of the possible causes of "short duration" calls on 008 services. Telecom's response should specifically address the issue raised by Mr Boulter. AUSTEL is aware that Telecom is currently investigating the general issue of "short duration calls", but is also aware that 008 services are not included in this investigation.

(6) Telecom is requested to respond to Mr Smith's claim that on his 267 230 service he is being charged "on average 11% over charged seconds".

(7) The central issue raised by Mr Smith in his letter is that he is being charged for calls that do not connect to his 008 service. The calls identified in (1) are cited by Mr Smith as instances of

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such calls. Telecom is requested to specifically address this issue in its response.

For clarification of any of the matters raised in this letter please contact Bruce Matthews on (03) 828 7443.

Yours sincerely

B. D. Matthews

Bruce Matthews
Consumer Protection

46F

94/0269-06

Telecom AUSTRALIA

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11 November 1994

By facsimile: 820 3021

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Customer Response Unit
Commercial & Consumer

Level 37
242 Exhibition Street
Melbourne Vic 3000
Australia

Telephone 03 634 2977
Facsimile 03 632 3235

Mr B Matthews
AUSTEL
PO Box 7443
St Kilda Road
MELBOURNE VIC 3004

Dear Sir,

CHARGING DISCREPANCIES RECORDED BY ALAN SMITH AND ISSUES RELATED TO SHORT DURATION CALLS ON 008 SERVICES

I refer to your letter dated 4 October, 1994 to Mr Steve Black. I am responding to this letter as the Manager responsible for handling Mr Smith's dispute with Telecom.

You have requested Telecom to provide to you information relating to charging discrepancies reported by Mr Smith in relation to short duration calls on his 008 services together with other information.

Each of the questions put by you in your letter of 4 October, 1994 will be answered as part of Telecom's defence to Mr Smith's claims lodged under the Fast Track Arbitration Procedure. As you are aware, information relevant to defence documents are confidential under the procedure and may not be made known to third parties. The Fast Track Arbitration Procedure was established with the input and consent of Austel.

In respect of the confidentiality aspect, the Arbitrator has advised Telecom that he considers that the parties (to the arbitration) must remember at all times that these proceedings are subject to the confidentiality provisions set out in clauses 16-19 of the Fast Track Arbitration proposal. In particular, Telecom has been asked to bear in mind that a breach of confidentiality (even inadvertently) could lead to a dismissal of the claim pursuant to Clause 12 of the proposal.

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Telstra Corporation Limited
ACN 051 775 556

94/0269-06
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Mr Smith himself is obviously concerned about these implications as your letter advises that he has raised this very point with you and was concerned that any action by Austel may conflict with the Fast Track Arbitration process.

If the information requested is provided to you outside of the approved Arbitration Rules, other parties to the Fast Track Arbitration Procedure may also seek other information through you and expect answers in like manner. I believe that this will prove dysfunctional to an orderly and manageable arbitration process and could possibly lead to its breakdown. It would also involve Telecom in breaking its confidentiality undertaking under the Fast Track Arbitration Rules.

Mr Smith, of course, has rights under the Arbitration Rules to request the Arbitrator to provide him with relevant information at any time and Telecom has indicated that it will comply with a directive of the Arbitrator to provide information.

In these circumstances, Telecom finds itself faced with two conflicting obligations; that to Austel and that to the confidentiality requirements of the arbitration process. It is Telecom's view that Mr Smith's interests are more than adequately protected by the Austel approved arbitration process and that the issue should be left in the capable hands of the Arbitrator to determine the appropriate remedy, if any, for Mr Smith.

I would appreciate your comments on how this complaint might be resolved.

Turning from the particular issue of Mr Smith to the general question of the operation of the 008 service, Telecom considers that the 008 service operates satisfactorily and does not raise any issues of concern. If you require specific information on the general principles of operation of the 008 service, Telecom is happy to respond.

Yours faithfully,

Ted Benjamin
National Manager
Customer Response Unit

46G

AUSTEL

AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

94/0269

(467)

1 December 1994

Mr T Benjamin
National Manager
Customer Response Unit
TELECOM

Facsimile No: (03) 634 8441

Dear Mr Benjamin

CHARGING DISCREPANCIES RECORDED BY ALAN SMITH, SHORT DURATION CALLS ON 008 SERVICES AND ALAN SMITH'S ARBITRATION

This letter is provided in response to your letter dated 11 November 1994 entitled "Charging Discrepancies Recorded by Alan Smith and Issues Related to Short Duration Calls on 008 Services."

I consider that the fundamental issue raised in your letter is your statement:

> *If the information requested is provided to you outside of the approved Arbitration Rules, other parties to the Fast Track Arbitration Procedure may also seek information through you and expect answers in like manner. I believe that this will prove dysfunctional to an orderly and manageable arbitration process and could possibly lead to its breakdown. It would also involve Telecom in breaking its confidentiality undertaking under the Fast Track Arbitration Rules.*

My response to this statement is as follows. AUSTEL can not disregard issues of concern which come to our attention because these **may** be the subject of arbitration. I note that AUSTEL is not a party to the Fast Track Arbitration Procedures and is therefore not aware of the specific issues which have been raised in this process. Furthermore, under the Fast Track Arbitration Procedure there is a mechanism for dealing with the disclosure of confidential information, as follows:

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If there is any disclosure of any part of the subject matter or the conduct of the Procedure, the Confidential Information or the Arbitrator's award by either party, then the Arbitrator may take such steps as he thinks appropriate including the dismissal of the claim in the event of a disclosure by the claimant.

If Telecom wishes to take up the issue of any disclosure of confidential information which may have occurred or **which may in the future occur** under the "Fast Track" Arbitration Procedure then this should be taken up with the Arbitrator of this Procedure. The Procedure itself has mechanisms for ensuring an "orderly and manageable arbitration process" is followed. If Telecom has concerns that the Procedure is becoming unmanageable for reasons of disclosure of confidential information then these should be raised with the Arbitrator, not AUSTEL. This general advice also applies to issues of disclosure of confidential information in the Arbitration Procedures for the "COT 12" and the pending General Arbitration Procedures to be administered by the TIO.

AUSTEL still requires an answer to the issues raised in my letter of 4 October 1994, and requests that an answer to all the issues be provided by 15 December 1994.

I note that your letter states that "Each of the questions put by you in your letter of 4 October 1994 will be answered as part of Telecom's defence to Mr Smith's claim lodged under the Fast Track Arbitration Procedure." As AUSTEL has not sought information and is not aware of any of the details of Mr Smith's claims under the Fast Track Arbitration Procedure, I was therefore not aware until I received your letter that Mr Smith has raised all of the specific issues identified in my letter. I suggest that in future Telecom not divulge information of this nature to AUSTEL on any matters raised by AUSTEL which are matters raised in arbitration. This in itself could be regarded as disclosing information which is confidential under the arbitration process.

In the current situation where it is possible that both parties to the Fast Track Arbitration Procedure have divulged information to AUSTEL which details issues raised in this Procedure I propose to take the following course of action. AUSTEL will write to the Arbitrator enclosing copies of correspondence on this matter. AUSTEL will seek confirmation from the Arbitrator that Mr Smith has raised the issues detailed in my letter. Should the Arbitrator confirm that these issues have been raised then AUSTEL will not provide a response to Mr Smith on them, as he will have received this response through the Arbitration Process. AUSTEL will inform Mr Smith of AUSTEL's actions in this regard. Should the Arbitrator fail to provide any information

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on whether these issues have been raised under arbitration, or deny that all these issues have been raised by Mr Smith, then AUSTEL will write to Telecom further on this matter. I note that under the Fast Track Arbitration Procedure the Arbitrator does not become involved in assessing the detail of the claimant's submission until Telecom has provided its response to that submission, therefore the Arbitrator may not be in a position to provide a rapid response to AUSTEL's letter.

I must emphasise that AUSTEL is not seeking to prejudice Mr Smith's arbitration. The issues raised by Mr Smith, however, concern matters which potentially affect a considerable number of Telecom's customers and it is on this basis that AUSTEL has taken up these issues. It is also the stated reason why Mr Smith raised these issues with AUSTEL in his 3 October 1994 letter, as he "Thought this information might be of concern to AUSTEL". In this context, I note that my 4 October 1994 letter also raises the concerns of another Telecom customer, Mr Jason Boulter, regarding the operation of his 008 service. In addition, concerns on the general operation of Telecom's 008 service have recently been raised with AUSTEL by the Federal Member for Wannon, Mr David Hawker. The issues raised by Mr Hawker will be the subject of a separate letter to Mr Steve Black, but information you provide in response to my 4 October 1994 letter may well form part of AUSTEL's response to Mr Hawker.

In summary, the issues raised in my 4 October 1994 letter are of concern to AUSTEL, and will remain of concern until Telecom provides a response to AUSTEL which AUSTEL considers allays this concern.

On another matter, thankyou for your offer to provide information on the general principles of the operation of Telecom's 008 service. I would like to take up this offer once you have responded to the issues raised in this letter.

Yours sincerely

B. D. Matthews

Bruce Matthews
Consumer Protection

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AUSTEL

AUSTRALIAN TELECOMMUNICATIONS AUTHORITY

94/0269

8 December 1994

Mr Gordon Hughes
Hunt & Hunt
GPO Box 1533N
MELBOURNE 3001

Dear Mr Hughes

ISSUES RAISED WITH AUSTEL BY MR ALAN SMITH AND ISSUES RAISED BY MR SMITH UNDER THE FAST TRACK ARBITRATION PROCEDURE

I am writing to you in your capacity as Arbitrator of Mr Alan Smith's claim against Telecom under the Fast Track Arbitration Procedure, and am seeking your confirmation that Mr Smith has raised certain issues in his claim under this procedure.

The reason for my request is as follows. On 3 October 1994 Mr Smith wrote to AUSTEL raising issues concerning the operation of his telephone service at the Cape Bridgewater Holiday Camp. I wrote to Mr Steve Black of Telecom on 4 October 1994 requesting a response to the issues raised by Mr Smith. On 11 November 1994 Mr Ted Benjamin of Telecom replied to this letter stating that, inter alia:

> Each of the questions put by you in your letter of 4 October, 1994 will be answered as part of Telecom's defence to Mr Smith's claim lodged under the Fast Track Arbitration Procedure.

This letter went on to argue that the issues raised by Mr Smith would be more appropriately dealt with under the Fast Track Arbitration Procedure, noting that the parties to this procedure are bound by the confidentiality provisions contained within it, and therefore unable to disclose "information relevant to defence documents" to third parties. I have enclosed my response to this letter, dated 1 December 1994, as well as copies of the other correspondence referred to above.

A major consideration in AUSTEL's pursuit of the issues raised by Mr Smith was the likelihood that these problems, if proved to exist, would almost certainly affect a numbe

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TELEPHONE: (03) 828 7300 FACSIMILE: (03) 820 3021

of other Telecom customers. In pursuing these issues, however, AUSTEL does not wish to disrupt Mr Smith's Fast Track Arbitration Procedure. As foreshadowed in my letter to Mr Ted Benjamin of 1 December 1994, AUSTEL is therefore seeking your confirmation that Mr Smith has raised in his Statement of Claim the issues raised in my 4 October 1994 letter to Mr Steve Black. If you are able to confirm that Mr Smith has raised these issues in his Statement of Claim then AUSTEL will not provide Mr Smith with a response to his 3 October 1994 letter, as he will have received a response from Telecom to the issues he raised in this letter through the mechanisms of the Fast Track Arbitration Procedure. I should emphasise that AUSTEL is not seeking any information whatsoever on the specific details of the issues raised by Mr Smith under the Fast Track Arbitration Procedure, and is essentially seeking a general confirmation that the identified issues have been raised in this procedure.

Should you require more information on the matters raised in this letter or the accompanying correspondence please telephone me on (03) 828 7443.

Yours sincerely,

B.D. Matthews

Bruce Matthews
Consumer Protection

Enclosures:

Alan Smith letter of 3 October 1994 to Cliff Mathieson.

Bruce Matthews letter of 4 October 1994 to Steve Black "Charging Discrepancies Reported by Alan Smith and Issues Related to Short Duration Calls on 008 Services."

Ted Benjamin letter of 11 November 1994 to Bruce Matthews "Charging Discrepancies Recorded by Alan Smith and Issues Related to Short Duration Calls on 008 Services"

Bruce Matthews letter of 1 December 1994 to Ted Benjamin "Charging Discrepancies Recorded by Alan Smith, Short Duration Calls on 008 Services and Alan Smith's Arbitration"

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Telecom AUSTRALIA

FAXE 16.12.94

16 December 1994

Customer Response Unit
Commercial & Consumer

Level 37
242 Exhibition Street
Melbourne Vic 3000
Australia

Telephone 03 634 2977
Facsimile 03 632 3235

Dr Gordon Hughes
Hunt & Hunt

By facsimile: (03) 614 8730

Dear Sir,

Fast Track Arbitration Procedure - Smith

Please find enclosed a copy of the following documents:

1. Letter dated 4 October 1994 from Austel to Telecom.

2. Letter dated 11 November 1994 from Telecom to Austel.

3. Letter dated 1 December 1994 from Austel to Telecom.

You will note from the correspondence that Austel has requested Telecom to provide information relating to charging discrepancies reported by Mr Smith for short duration calls on his 008 service. These issues form part of the subject matter of Mr Smith's claim under the Fast Track Arbitration Procedure.

In light of clauses 16-19 of the arbitration procedure which prohibit the disclosure of confidential information, Telecom is reluctant to provide Austel with this information.

You will note from Austel's letter of 1 December 1994 that Austel still requires Telecom to provide this information and states that "[it] will seek confirmation from the Arbitrator that Mr Smith has raised the issues detailed in [his] letter. Should the Arbitrator confirm that these issues have been raised then Austel will not provide a response to Mr Smith on them...and will inform Mr Smith of Austel's actions in this regard".

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Telecom wishes to comply with Austel's request for information and seeks your views as to whether you would consider the provision of this information to Austel has the potential to breach the Fast Track Arbitration Procedure. The question has also been raised of whether discussion between yourself and Austel on the content of the claim and defence in Mr Smith's arbitration might itself breach the confidentiality rules of the Fast Track Arbitration Procedure.

The simplest way forward may be for Mr Smith and Telecom and yourself to all confirm in writing that this information can be provided to Austel if this meets with your approval.

Yours faithfully,

Ted Benjamin
National Manager
Customer Response Unit

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AUSTEL
AUSTRALIAN
TELECOMMUNICATIONS
AUTHORITY

5 Queens Road
Melbourne
Victoria 3004
Tel: (03) 9828
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TTY: (03) 9829 7490

94/269

3 October 1995

Mr Steve Black
Group General Manager
Customer Affairs
Telstra

Facsimile No: (03) 9632 3241

Dear Mr Black

CALL CHARGING AND BILLING ACCURACY OF TELSTRA'S 008/1800 SERVICE

I write concerning charging discrepancies raised in 1994 by Mr Alan Smith of Cape Bridgewater Holiday Camp regarding his 008 service, and the wider issue these discrepancies raise for Telstra's 008/1800 customers. These matters have been the subject of previous letters from AUSTEL to you and to Mr Ted Benjamin, dated 4 October 1994 and 1 December 1994, respectively. The charging discrepancies have again been raised with AUSTEL by Mr Smith following the conclusion of his Fast Track Arbitration Procedure.

As noted in AUSTEL's letter of 1 December 1994 (copy attached), the matters raised by Mr Smith concerned an issue which has the potential to affect a considerable number of Telstra's customers. Specifically, the matters raised issues about the call charging and billing accuracy of Telstra's 008/1800 service.

To date, AUSTEL has not received a response from Telstra which allays AUSTEL's concerns about this issue. Telstra's introduction of a 12 cent flag fall for its 008/1800 service has increased AUSTEL's concerns, given the issues raised by Mr Smith included matters related to short duration calls.

AUSTEL has a responsibility to investigate potential systemic network performance issues which come to its attention. Accordingly, I request that Telstra provide a response to the issues raised in AUSTEL's letter of 4 October 1994 (copy attached) by COB 13 October 1995.

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I note from Mr Benjamin's letter of 16 December 1994 that Telstra was then in the process of preparing a response addressing the issues raised.

Yours sincerely

Cliff Mathieson
General Manager
Carrier Monitoring Unit

cc Mr John Pinnock, TIO

46K

Telstra

Office of Customer Affairs
Commercial & Consumer

Level 37
242 Exhibition Street
Melbourne Vic. 3000

Telephone (03) 9632 7700
Facsimile (03) 9632 3235

16 October 1995

Austel
5 Queens Road
MELBOURNE VIC 3000

Attention: Mr Cliff Mathieson

By facsimile: (03) 9820 3021

Dear Sir,

CHARGING DISCREPANCIES REPORTED BY ALAN SMITH AND ISSUE RELATED TO SHORT DURATION CALLS ON 008 NUMBERS

I refer to your letters of 4 October 1994, 1 December 1994 and 3 October 1995.

As a preface to Telstra's answers, I note the following:

Mr Smith has two services: (055) 267 267
(055) 267 230, which is a fax service.
In addition Mr Smith has a 008 service, which is "tagged" to (055) 267 267 (In other words 008 calls are answered on 267 267, but are separately billed).

Point (1) Caller to Mr Smith received RVA:

I note that Mr Smith 's complaint to Austel stated that his caller to his 008 number experienced 3 RVA's on 27 May 1994, between 7:51pm and 7:59pm. However, Telstra's Service Plus records show that, at that time, Mr Smith reported that his caller, an investigator in Queensland, at Mr Smith's request, made two calls to his fax number (267 230) between 8.00pm and 8.15pm and received an RVA on both occasions. Mr Smith then claims that he picked up his fax handset and received busy tone. Then the caller rang the 008 number (tagged to 267 267) and Mr Smith advised that the caller received an RVA.

Mr Smith had earlier that day complained to Telstra that his fax service had been giving single bursts of ring at various times. We assume that this is why Mr Smith asked his investigator to ring his fax.

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At the time, Telstra had SMART 10 equipment monitoring all Mr Smith's lines and the records showed that:

- On 27 May 94, the last call to the fax number (267 230) was at 7:54:20pm. This call lasted 65 seconds.

- His 008 service (267 267) records 3 incoming calls: at 7.51pm lasting 119 secs; at 7.55pm lasting 43 secs and at 7.59pm, lasting 166 seconds (see Attachment 1). The next 008 call was at 9:59pm, which lasted 23 minutes 11 seconds.

Billing of Mr Smith's 008 calls commence when Mr Smith picks up his phone in answer to an incoming call. Billing ceases when the ***caller*** hangs up. This is no different from a normal call except that on a 008 service the called party rather than the calling party is billed. However if the caller from Queensland had received an RVA, then Mr Smith would not have picked up his phone (as he would have received no ring tone) and the length of the conversation would not have been recorded or billed. From the notes Mr Smith has made on his copy of the accounts (See Attachment 2), it appears that he has assumed that the call at 9:59pm and the calls recorded between 7:51pm and 7:59 pm were those RVA's. But, there would be no record of those RVA calls on his bill as no connection would have taken place.

Mr Ross Anderson, a Telstra CPE technician, visited Mr Smith's premises on 27 May 1994 to check the fax machine but found no fault. Attached is part of a Statutory Declaration made by Mr Anderson in December 1994 for the purposes of the arbitration (See Attachment 3). The paragraphs in question relate to Mr Anderson's visit to Mr Smith's premises on 27 May 1994 and suggest Mr Smith had a poor understanding of the operation of his new fax machine.

Telstra also notes that Mr Smith or a representative of Mr Smith called 1100 on 27 May to complain of RVA on his fax line. No fault was found.

The only record Telstra has of Mr Smith making a complaint about his 008 service, at that time, is a complaint to Service Plus (132999) where on 27 May 1994, he complained of short duration calls being charged to his 008 account. This complaint obviously could not have related to the account attached to your letter, which he would not have received at that stage. In an any event, investigations at the time found no fault with his 008 service.

Telstra Conclusion:

Telstra's records do not accord with Mr Smith's complaint to Austel. Testing was carried out in response to the complaints recorded in Service Plus and Leopard. Testing results suggest that there was no fault with any of his lines on 27 May 1994.

Point (2) Advising Mr Smith about the outcome of his complaint

Telstra's records do not show that Mr Smith was ever specifically given results of the RVA complaints. However, given that his complaints were recorded on Service Plus, it can be assumed that he would have been advised by a Service Plus operator of final clearance.

Point (3) Discrepancy Between the 008 Bill and the SMART 10 data

The Smart 10 and the billing system carry out different functions and are not meant to reflect one another.

Smart 10 is connected to Mr Smith's exchange and times the calls based on activities on his handset. Consequently, the time between Mr Smith picking up his phone and hanging up in the cited instance was 2 min and 46 seconds as measured by the Smart 10 equipment (see Attachment 1).

However, 008 calls are billed based on the time from the B party (Mr Smith) picking up the handset until the time the *A party* hangs up at the end of the communication. In this case after Mr Smith hung up, the caller took 29 seconds to hang up his end of the line. Mr Smith was consequently charged for a 3 min 15 second phone call (see Attachment 2).

Point (4) Lack of call origin data for one call

Call Data Information.

According to Telstra's internal Billing record (See Attachment 4), the call had a partial A party number (partial Calling Line Indentification - "CLI") which was 070. A likely explanation for the lack of the full A party number (full CLI) of the call was that the originating exchange did not have CLI capability. In order to protect the privacy of the callers, the CABS software for 008 service is designed to remove the last 4 digits of the A Party Number before printing the final bill to the customers. This rule applies to partial CLI as well as full CLI calls. Since the 008 call only had a partial CLI with three digits, 070, the CABS software would have removed all of them. This explains why there was no call origin data for the 008 call at 9:53 am on 28/5/94 on Mr Smith's account (see Attachment 2). This call was for 1 second and was charged at 1 cent.

It is noted that for STD and IDD calls, short duration calls of 6 seconds or less are not charged to the caller. However this is not the case with 008 numbers.

The account that Mr Smith refers to is consistent with the scenarios outlined above. In addition, this call is at this stage too old to allow retrieval of "raw" data and therefore Telstra is unable to cross correlate to determine what occurred. What can be said is that results of testing performed at the time of investigation (refer next item) indicate no faulty access or systemic short duration problem.

Short Duration Call.

Smart 10 data shows that on this particular call, the phone gave 8 rings. This would take about 12 seconds (see Attachment 1). I can only surmise that as Mr Smith arrived at his phone to pick up the handset, the caller was in the process of hanging up. The result would be a billed call of very short duration, as was the case here.

Point (5) Short Duration calls on 008

(a) Mr Jason Boulter of the Melaleuca Motel

Short duration calls suggest that both the caller and the called party picked up the phone for the purpose of conversation. There needs to be a connection between two lines for a bill to be generated (subject to the comments made under "Summation" below). If Mr Boulter had not received call attempts from customers, as he claims, then he would not have had reason to pick up his handset. In those instances he would not have been billed for any calls.

Until Telstra is given further information in relation to the Melaleuca Motel, no further comment relating specifically to his service can be made. It should be noted that the Melaleuca Motel is now under different management and is being billed for its services through a reseller and consequently we have no detailed call or service information.

(b) General Observations

Short duration calls on 008 numbers can occur for a variety of reasons:.

- Caller changes mind and hangs up just after called party has picked up the phone;
- Caller, on hearing the name or voice of the called party realises that a wrong number has been called and hangs up without explanation;
- Caller hangs on for some time and hangs up just as called party reaches and picks up the handset;
- An unusual condition known as 'no voice on answer', where the called party, either because of a CPE malfunction or a fault condition cannot hear the voice of the caller upon giving a greeting, and as a consequence hangs up the phone, causing the caller to also hang up.
- In addition, further network reasons are included below in the summation.

Point (6) Mr Smith's Claim that he is being overcharged 11%

Telstra is unclear as to what is being requested by Austel. Mr Smith's 267 230 service is usually his fax line, although by his own admission, he uses it to make calls. His 008 service is not connected to his fax line. In his letter to Austel of 3 October 1994, Mr Smith complains of his 267 230 line, but then uses an "analysis sheet", being Smart10 and billing data for his 008 service, as an example of how he is being overcharged. Consequently, our explanation below focuses on Mr Smith's claim that he is being overcharged for calls to his 008 service.

As has been explained above, Smart 10 and the billing system have different functions. Mr Smith is not being overcharged for his calls.

Smart 10 is connected to Mr Smith's exchange lines and times the calls based on activities on his handset. Consequently the time between Mr Smith picking up his handset and hanging up is the time recorded.

However, the billing system for the 008 services records the length of the call as that time between the called party picking up the phone and the caller hanging up at the end of the conversation.

Obviously there can be a time delay between the caller hanging up and the called party hanging up. This is reflected by the fact that the Smart 10 data will record the length of the call differently from the billing system .

Point (7) Mr Smith Claimed that he was charged for 008 calls that were not connected

Telstra has demonstrated above that the calls complained of under question (1) did connect to Mr Smith's service and fairly long conversation times were recorded. Telstra also confirms that, if calls did not connect to his 008 service then no call would be billed.

If the calls in question actually connected to an RVA, Mr Smith would also not be charged and there would be no record on the account.

Summation

A final point to be made is that valid "short calls" make up a sizeable proportion of normal long distance traffic. Traffic studies show that some 12% of all calls are under 15 seconds. The question here is whether invalid short calls are being charged to customers, specifically to 008/1-800 customers.

While a network or equipment fault could cause a wrongly charged short call, operational tests and fault analyses to date have revealed no systemic cause: that is, identified wrongly charged short calls have been caused by isolated and non-related events. In such cases, the causes are quickly corrected and the accounts of any customers identified as having been wrongly charged are appropriately adjusted. It is therefore almost impossible that Mr Smith's 008 service has systematically been billed for unconnected calls.

Generally, the sources of short duration calls, include:

- Customer related causes and misconceptions - for example:
  - customer not understanding that a call answered by a telephone answering machine is charged;
  - customer premises call diversion (the caller is charged) to a busy or non-answering number;
- Network and equipment faults - for example, the call drops out soon after answer;
- Customer premises equipment features, faults, and misuse, for example:
  - false answer signal from a PABX;
  - fax/phone switch: call is answered by an auto facsimile switch which reinserts ring prior to full voice or fax response.
- Those examples given in 5(b) above.

However, Telstra is vigilant in examining possible faults and error conditions. Operational tests and research are continuing into the possible existence of fault conditions. In brief, it is proposed to undertake the following work:

(a) Customer research to identify reasons for short duration call causes from a customer perspective - details of the proposed research have been previously advised to AUSTEL. However, the study has been delayed by technical constraints.

(b) Technical research and testing with a focus on the customer access network.

(c) Internal research involving overseas telcos.

Yours faithfully

Steve Black

Steve Black
Group General Manager
Customer Affairs

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