

<b>FAX FROM:</b> ALAN SMITH Cape Bridgewater Holiday Camp Portland 3305 <b>FAX NO:</b> 055 267 230 <b>PHONE NO:</b> 008 816 522	<b>FAX TO:</b> MR DAVID HAWKER MP FEDERAL MEMBER FOR WANNON 97 THOMPSON ST HAMILTON 3300
CONTACT INFORMATION FROM 10 / 2 / 1996 RMB 4409, Cape Bridgewater, Portland, 3305 <b>FAX NO:</b> 055 267 204 <b>PHONE NO:</b> 055 267 204	<b>DATE:</b> 11.2.96 <b>NUMBER OF PAGES</b> (including this page)

Dear Mr Hawker,

Please make the following letter known to your party's candidates for the up-coming election. The Telstra Board, and past members of the Federal Government, are aware of these issues but have done nothing. These facts show that Telstra is not the pillar of society that Mr Keating would have us believe.

Seven weeks ago, Telstra disconnected my Customer Service Gold Phone because I refuse to pay this account, in protest at the incorrect charging on the account. The evidence provided by my Technical advisor during my Fast Track Arbitration Procedure (FTAP) showed that this service was 59% faulty. This evidence was taken from Telstra's own data.

Mr Pinnock, the Telecommunications Industry Ombudsman (TIO) refuses to intervene, stating that my Arbitration is now over.

I am told "white" is "black" and I must accept this, after all, Dr Hughes cannot be wrong - he is the Arbitrator. What would you do, Mr Hawker, if further evidence now at hand showed that "white" was, in fact, "snow white" and not "black" after all? How would you challenge a system that rules in favour of a dictatorship (in this case - Telstra) and not democracy?

I can substantiate all the information in this letter. What amazes me is that all the evidence I have shown the Arbitrator and his Resource Team, during the Fast Track Arbitration Procedure (evidence which has been ignored by them), clearly shows that there has been a cover-up of immense proportions.

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Dear Mr Hawker,

I am contacting you because this story is of National and International importance. This could possibly be Australia's version of Watergate if this unsatisfactory situation is allowed to continue. The material relating to this story has been fully assessed over the past five years and it demonstrates, conclusively, that a select group of Telecom (now Telstra) management have infiltrated the legal system to deny Australian citizens their democratic right to natural justice. Documents show conclusively that this section of Telstra management even mislead and lie to their own legal representatives.

Many of the aspects of this story have been investigated by people holding positions of trust throughout the Australian community, and found to be correct, but the story of this saga has never been released for public scrutiny.

Telstra once held a monopoly position in Australia's telecommunication industry but did not observe the operational standards that Australian's were entitled to. This fact is well documented in both the Coopers and Lybrand Report of November 1993 (point (i) below) and in the Austel COT Report of April 1994 (point (ii)below).

*(i) Coopers and Lybrand were an independent advisory group, appointed by Telstra to study their operations. This report found Telstra wanting in many areas.*

*(ii) Austel, the Australian Telecommunications Regulator, produced their COT report after investigating the complaints of four small business people. This report also found that Telstra was not performing according to established guide-lines.*

The following points summarise the current situation:

- \* Parts of Telstra management, from the time covered in the reports mentioned above, and still, today, follow a policy of involving legal firms in their operations so that these firms cannot represent the 'ordinary Australian' because of a possible 'conflict of interest'. More than 43 of Australia's largest legal firms now represent Telstra in this way.
- \* The policy of keeping legal firms 'on-side' has been extended throughout Australia's financial sector by the selective awarding of contracts - some totalling millions of dollars.
- \* The same group of Telstra management has expended much time and money in the media, on 'damage control'. Documentation taken from Telstra records shows that they
  - (a) awarded some advertising contracts to their supporters and threatened to withdraw other contracts  
and
  - (b) targeted researchers, reporters and editors in the print and electronic media in order to stop the public becoming aware of consumer complaints or disputes

This documentation also uncovered massive incorrect charging for the supply of Telstra services to small businesses and to the general public. Telstra, the Telecommunication Industry Ombudsman (TIO) and an 'independent' arbitrator knew of all this, but turned a blind eye (or closed eyes) to the detriment of Telstra subscribers. The evidence of this incorrect charging has been provided to Austel.

- \* When ordinary Australians questioned Telstra's policies, their efficiency, their service or their charges, they were either isolated or subjected to enormous pressure to change their position. Some were paid to keep quiet, others were coerced into faulty arbitration procedures. Independent arbitration procedures were hijacked by a section of Telstra management. *In at least one instance, an Arbitrator was appointed by the TIO to assess the claims of a number of claimants who had agreed to a 'non-legalistic, natural justice' process. The process was to be fast-tracked in April, 1994, but is still largely unresolved, due to the non-release of Telstra FOI documents to the*

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*claimants. This non-release is in direct contravention of signed agreements. The "independent" Arbitrator was, at the time (and still is) a senior partner in a large Australian legal firm. This firm was awarded a \$4,000,000 Telstra contract during the period of the arbitration. Written evidence shows that the Arbitrator was pressured by Telstra to support their position. This evidence also shows that the Financial Resource Team and the Technical Resource Team, both of which were appointed to operate independently of the Arbitrator, omitted vital evidence from their finished reports ON THE ARBITRATOR'S INSTRUCTION. This denied natural justice to the claimant.*

- \* Documentation also shows that some public officials, of high office, were/are aware of Telstra's 'unconscionable commercial conduct' but their attempts to resolve issues have been blocked by a wall of isolationism and silence. *Falsified evidence, sworn on oath by Telstra officials, has been used to support Telstra in a legal process. Other evidence shows that reports submitted by an overseas telecommunications company were incorrectly used to support Telstra's flawed test results. These test results were also presented in arbitration.*
- \* Telstra material, obtained under Freedom of Information (FOI) verifies the extent of the deception and perversion of natural justice, throughout the Australian community. *Documents clearly indicate that some Telstra officials were aware of commercial-in-confidence business details that could only have been obtained through telephone monitoring. FOI documents that I have in my possession alone total approximately 34,000.*
- \* Documentation shows that Telstra officials covered up unsatisfactory service to at least one country area of 11,000 residents. *Complaints over a four year period were ignored and, even when the service was improved, nothing was announced publicly. Why did Telstra improve a service when, to all intents and purposes, it was 'operating to world standard'?*
- \* The Australian Federal Police have investigated these matters but, although their report was presented to the Federal Minister for Communications in 1994, there has been no release of this material for either parliamentary or public scrutiny.
- \* The Office of the Commonwealth Ombudsman is due to release a comprehensive report which further addresses these issues.

*The central issue of this letter is that FOI and other documentation support the fact that the arbitration system in Australia has been, or still is, controlled (or at least strongly influenced) by unethical and illegal conduct from a select group of Telstra management. These actions, involving millions of dollars of Telstra money, are not only undemocratic and un-Australian, but also deny the common person's right to natural justice.*

It has been suggested that no recognised organisation within Australia would be willing to address this situation although overseas interest in this story has been expressed. I would prefer, however, that this story be exposed in Australia. I would appreciate the opportunity to discuss these extremely serious matters at your earliest convenience, with a view to making all Australians aware of the largely un-noticed wart (or melanoma?) on the public face of Telstra.

Yours sincerely,

Alan Smith.

P.S. One chapter of an early draft of my forthcoming book regarding this matter was forwarded to your office last year (1995). The balance of the book is currently being completed.

The following are quotes from some of those who have assessed some of this material.

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**From the Office of the Commonwealth Ombudsman, Canberra  
(2 chapters sent)**

*The Ombudsman asked me to write and thank you for the copy of your draft book.*

*She asked me to tell you that, although she cannot confirm every detail in the exposition, the story is worth telling and that you have presented it in a very readable fashion.*

*Commonwealth Ombudsman  
John Wynack"*

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**From a facsimile from Julian Cress of the TV program: "60 Minutes" dated June 18, 1993**

*"Just a note to let you know I had some trouble getting through. "Pretty ironic" considering I was trying to contact you to discuss your phone problems.*

*Recording heard that your 008 number was not available. Half hour later I contacted "Service Difficulties" in Sydney. They called the local operator in your area - were told the lines in your area were congested at the time."*

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**Another, from "60 Minutes" this time from John Westcott, dated 3rd July, 1995.  
2 chapters sent**

*"Thanks for your letter and outline of your book. Quite a Saga"*

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**From Robert Palmer, Education Consultant  
4 chapters sent**

*"Unbelievable - yet true. The attachments which support this story leave no doubt in the mind of the reader as to the integrity of your work. You must finish this publication for your own peace of mind."*

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**Comment from a community group who viewed much of the draft material in 1995:  
4 chapters sent**

*"How can a Government in power allow this to continue? After all, Telstra is Government owned.*

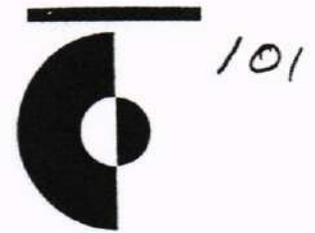
*The arbitrator who deliberated on your case - and is still making judgements on other Small Business Claimants, must be corrupt to allow this cover-up.*

*To think he may well be a judge one day - then what for the innocent man and woman in his court?"*

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28 March 1996

Mr David Hawker MP  
Federal Member for Wannan  
97 Thompson Street  
Hamilton 3300



Telecommunications  
Industry  
Ombudsman

John Pinnock  
Ombudsman

Dear Mr Hawker

**Re: Alan Smith**

I refer to Mr Alan Smith's facsimile to you of 11 February 1996. In that letter Mr Smith makes a number of allegations with respect to his Fast Track Arbitration Procedure. Whilst I am unable to make specific comments on that completed Arbitration or the result, I would like to respond to those allegations which relate to my office.

On page 1 of his letter, Mr Smith contends that the TIO knew of "massive incorrect charging for the supply of Telstra services to small businesses and the general public, but turned a blind eye (or closed eyes)..." This broad and generalised statement is entirely unfounded. My office handles many complaints about Telstra's charges and responds to those complaints on a case by case basis. It does so in a thorough and conscientious manner which provides fairness to both complainants and the carriers.

My office does not have the power to make general findings on Telstra's charging practices. Investigations of systemic over-charging are properly handled by AUSTEL which, I understand, has an established working party looking into the issue. It is incorrect for Mr Smith to assert that the TIO has avoided dealing with over-charging practices. My office refers questions of general charging practices to AUSTEL and deals with particular problems itself. Mr Smith's allegations of over-charging for his service formed part of the claim submitted to the Arbitrator. Consequently, this matter was dealt with in his Arbitration.

Mr Smith alleges (also on page 1) that the independent Arbitration process was "faulty" and "high jacked by a section of Telstra management". Again these allegations are without foundation. The Arbitration was subject to a set of rules agreed between the parties, was heard by an Arbitrator whose independence and integrity was accepted by Mr Smith and was properly administered by my office. At no stage was the procedure directed or driven by Telstra, much less "high jacked."

Mr Smith also asserts at the bottom of page 1 that the law firm of which the Arbitrator is a partner was awarded a \$4,000,000 Telstra contract during the period of his Arbitration. This is completely incorrect. The firm was named on a panel of 45 firms eligible for Telstra work. The Arbitrator has informed me that the Melbourne office of

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

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the firm has declined undertaking any work for Telstra during the course of the Arbitrations and has 'run off' the work which was being conducted for Telstra prior to his appointment.

The Arbitrator has stated that the Sydney office of the firm has also been 'running off' files on which it was acting for Telstra prior to the Arbitrator's appointment. As at November 1995 the office had billed \$19,000, with only \$5,000 worth of unbilled work in progress. Finally, the Arbitrator has informed me that the firm's Brisbane office, which is financially separate from the Melbourne and Sydney offices and does not share profits, was involved in an information technology project for Telstra Atlas in 1995. I am informed that the firm had billed approximately \$147,000 for this work as at November 1995.

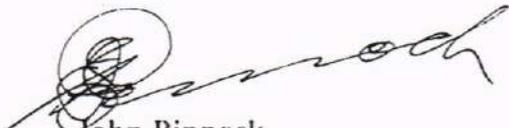
At the top of page 2 Mr Smith asserts that "written evidence shows that the Arbitrator was pressured by Telstra to support their position". I do not know to what "written evidence" Mr Smith is referring. In the past Mr Smith has made similar references to written evidence of proof of a particular allegation he has made. Invariably he chooses not to produce this evidence or proof when requested to do so, or produces material which does not, in fact, support his allegations at all.

On page 3, Mr Smith states that the Financial and Technical Resource Unit was improperly instructed by the Arbitrator and omitted vital evidence from their report. Mr Smith appears to misunderstand the role of the Resource Unit. The Unit is required by the terms of the Fast Track Arbitration Procedure to work in conjunction with and advise the Arbitrator. Both the Arbitrator and the Resource Unit are independent of either Telstra or a claimant. All evidence and submissions placed before the Arbitrator and the Resource Unit would have been considered, even if not specifically referred to in a final report.

It is obvious that Mr Smith is unsatisfied with the result of the arbitration of his dispute with Telstra. Whilst his frustration is understandable, I will not allow unfounded and incorrect allegations about my office or the Arbitration procedure to go unanswered. Mr Smith's Arbitration was conducted under a fair and equitable procedure, before an experienced Arbitrator of independence and integrity and administered by an office which was in no way compromised or influenced.

I trust this response is of assistance to you.

Yours sincerely

  
John Pinnock  
Ombudsman

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