

(13)



19th May 1995

Commercial and Consumer
Office of Customer Affairs
37/242 Exhibition Street
Melbourne 3000
Victoria
Australia
Telephone 03 9632 7700
Facsimile 03 9632 3235

Mr. Bruce Matthews
Carrier Monitoring Unit
Austel
5 Queens Road
Melbourne 3004
Victoria

Dear Bruce,

Re: Pro-forma BCS Legal liability letter - Recommendation 6 of the Austel COT Report

Pursuant to your letter to myself of 4 May 1995 I enclose the revised version of the Telstra pro-forma BCS legal liability letter. All of the amendments suggested by the AGS and Austel have been made subject to the comments below:

1. There has been a renumbering of some paragraphs in the letter for ease of reference.
2. Paragraph 1.2 has been clarified to take account of the AGS's comments but not in the precise manner suggested by the AGS.
3. The references to "legal liability" in 1.2(a) and (b) to "contractual liability" have been changed. Liability for negligence may be further limited to the ceiling determined by Austel from time to time pursuant to section 121 of the Telecommunications Act. This is consistent with clause 8.1 of the BCS Tariff conditions.

I enclose a copy of the standard BCS legal liability letter with all the amendments marked up for ease of reference by you.

I also enclose a 'clean copy' of the standard BCS legal liability letter without the amendments marked up. This will be the version that the customer receives when they have a compensation claim.

Please note that the letter may change pending the reconciliation of the Arbitrator's comments on Telstra's legal liability in the *Smith* decision.

Telstra Corporation Limited
ACN 051 775 556

3

002

61 3 9634 8728

MAJOR DISPUTES

61 3 9634 8728

19/05 95 10:16

Telecom considers that Recommendation 6 of the Austel COT report has been completed by the finalisation of this letter.

Yours Faithfully,

Robyn Watters
for Steve Black
Group General Manager, Customer Affairs

3

file

24 May 1995

Private & Confidential

Telecommunications
Industry
Ombudsman

Mr Steve Black
Group General Manager
Customer Affairs
Telecom
37/242 Exhibition Street
MELBOURNE VIC 3000

Warwick L Smith LLB
Ombudsman

By facsimile: 9632 3235

Black
Benjamin
Geary
Evert
Armstrong
Phillips
Thompson

Haar
Chisholm
Gamble
Levy
Deloitte
Sutton
Kearney

Freemills
~~Adrian W~~
~~Holding Media~~
~~Pratt~~
D'Arcy

File Smith / T10

Dear Steve,

RE: ALAN SMITH

Under the terms of the Fast-Track Arbitration Procedure, Cl.14 provides that payment is due within 3 weeks of the despatch of the award, unless appeals in accord with Cl.12 of the Arbitration agreement proceed.

I understand from Mr Paul Rizzo last evening that the matter of payment will be settled forthwith. Other matters relating to Liability will be dealt with separately. Dr Hughes is in his office from 30 May 1995.

Can we please now discuss finalisation.

I have to hand your letter of 19 May 1995 to AUSTEL's Carrier Monitoring Unit which refers to the Smith decision and the reconciliation of the Arbitrator's comments on Telstra's legal liability. I am happy to discuss this matter. AUSTEL has sought my views.

Yours sincerely

Warwick L Smith
Ombudsman

M34131

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