Alan Smith
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Phone: 03 55 267 267
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12 July 1998

Mr W Rothwell
Deputy Chairman
Telecommunications Industry Ombudsman's Office
Melbourne

Dear Wally,

I refer you to my letter of 1 July 1998 regarding two blank sheets of paper faxed from William Hunt, my Solicitor, on 29 June 1998. In my letter I brought to your attention the symbols which appeared on these blank pages and gave further examples of three other blank sheets, with the same symbols, which were received by Austel on 22nd April 1994.

The fax journal printouts attached to both sets of blank sheets show that the faxes took between 1 minute 13 seconds and 2 minutes 33 seconds to transmit but, as I am sure you would be aware, between Portland and Melbourne, a blank sheet would take only approximately 10 seconds to transmit. I believe this indicates that these faxes were interfered with during transmission.

The following documents are attached to further support my allegations that some of the documents I faxed to Dr Hughes during my Arbitration were not received at his office:

Attachment 1: An 11 page list of FTAP interprocedural documents exchanged between the Arbitrator (Dr Hughes) and Telstra and titled *"Smith FOI Data Base"*. I received my copy of these 11 pages, under FOI, on 18/10/96.

Attachment 2: A list of 43 faxes which I sent to Gordon Hughes between 21/9/94 and 6/3/95 (during my Arbitration), in date order. Some of these faxes included multiple pages of attachments. This list has been compiled from Telstra's billing records for my fax line, 055 267 230. These billing records clearly show that these faxes were sent from my fax to 036148730 which is Dr Hughes' office but none of these faxes are included in the document titled *"Smith FOI Data Base"* (Attachment 1).

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I refer you to my letter of 1 July 1998 regarding two blank sheets of paper faxed from William Hunt, my Solicitor, on 29 June 1998. In my letter I brought to your attention the symbols which appeared on these blank pages and gave further examples of three other blank sheets, with the same symbols, which were received by Ansel on 22nd April 1994.

The fax journal printouts attached to both sets of blank sheets show that the faxes took between 1 minute 13 seconds and 2 minutes 33 seconds to transmit but, as I am sure you would be aware, between Portland and Melbourne, a blank sheet would take only approximately 10 seconds to transmit. I believe this indicates that these faxes were interfered with during transmission.

The following documents are attached to further support my allegations that some of the documents I faxed to Dr Hughes during my Arbitration were not received at his office:

Attachment 1: An 11 page list of PTAP interprocedural documents exchanged between the Arbitrator (Dr Hughes) and Telstra and titled "Smith v/O/ Data Base". I received my copy of these 11 pages, under FOI, on 18/10/96.

Attachment 2: A list of 43 faxes which I sent to Gordon Hughes between 21/2/94 and 6/2/95 (during my Arbitration), in date order. Some of these faxes included multiple pages of attachments. This list has been compiled from Telstra's billing records for my fax line, 055 267 230. These billing records clearly show that these faxes were sent from my fax to 0261 48730 which is Dr Hughes' office but none of these faxes are included in the document titled "Smith v/O/ Data Base" (Attachment 1).

Attachment 3: A copy of a letter dated 3/2/1994, to the Hon. Michael Lee, Minister for Communications. In paragraphs 4 and 6 I refer to my concern that Telecom was interfering with my faxes during the FTSP.

Attachment 4: A copy of a letter dated 10/6/94 from Austel to Telstra expressing my concerns about the ability to receive or send facsimiles.

During the early part of 1994 I also made it known to Warrick Smith, then the TIO, in the presence of Claire Allston, that I believed my phones had been bugged and my faxes were being waylaid or somehow interfered with. I raised this issue with Warrick Smith again later, during a chance meeting at Tullamarine Airport when our separate flights crossed, pointing out that I was still concerned but that nothing appeared to have been done to rectify the situation. Mr Smith responded by saying that when he first had dealings with Ann Garms (another COT member) and me he believed we were paranoid but that now, having spoken to the Federal Police and other people with problems similar to the COTs, he had changed his opinion (approximate quote only).

Among the documents I showed the Arbitrator during my Arbitration, in support of my allegations regarding phone bugging, were some showing that Telstra knew my movements months in advance and others showing that Telstra also knew who rang me, even when they were not ringing from their usual base.

To support my allegations regarding interference with my faxes during the FTSP, I supplied the following information to the Arbitrator. Please note that these are only some of the examples I included:

A. 21/1/1994:
5 out of 7 faxes lost. Blank sheets of paper received by my FTSP accountant, Selwyn Cohen. All 7 faxes charged to my account by Telstra.

B. 2/2/1994:
2 important private faxes to Stedman Cameron, my legal counsel, both lost.

C. 3 blank sheets received from Austel but charged to me by Telstra.

Please now take Attachment 1 and compare it to Attachment 2. This comparison clearly shows that the 43 faxed claim documents (and their attachments) listed on Attachment 2, which were taken from my Telstra accounts over an 8 month period and which were faxed to Dr Hughes, are not included in the 11 page document at Attachment 1, which is a list of documents received by Telstra, from Dr Hughes. In other words, not all the faxes I sent were received by the people they were intended for. How can these missing faxes be explained? Surely no Arbitrator would deliberately refrain from sending 43 documents and attachments on to the other party in an Arbitration? Even allowing for possible human error on the part of Dr Hughes's office, it is not possible to explain the high number of documents which were not received by Telstra.

Attachment 3: A copy of a letter dated 3/2/1994, to the Hon. Michael Lee, Minister for Communications. In paragraphs 4 and 6 I refer to my concern that Telecom was interfering with my faxes during the FTSP.

Attachment 4: A copy of a letter dated 10/6/94 from Ausrel to Telstra expressing my concerns about the inability to receive or send faxes/emails.

During the early part of 1994 I also made it known to Warrick Smith, then the TUO, in the presence of Claire Allston, that I believed my phones had been bugged and my faxes were being waylaid or somehow interfered with. I raised this issue with Warrick Smith again later, during a chance meeting at Tullamarine Airport when our separate flights crossed, pointing out that I was still concerned but that nothing appeared to have been done to rectify the situation. Mr Smith responded by saying that when he first had dealings with Ann Clarke (another COT member) and me he believed we were paranoid but that now, having spoken to the Federal Police and other people with problems similar to the COT's, he had changed his opinion (approximate quote only).

Among the documents I showed the Arbitrator during my Arbitration, in support of my allegations regarding phone bugging, were some showing that Telstra knew my movements months in advance and others showing that Telstra also knew who rang me, even when they were not ringing from their usual base.

To support my allegations regarding interference with my faxes during the FTSP, I supplied the following information to the Arbitrator. Please note that these are only some of the examples I included:

A. 21/1/1994:

5 out of 7 faxes lost. Blank sheets of paper received by my FTSP accountant, Selwyn Cohen. All 7 faxes charged to my account by Telstra.

B. 2/2/1994:

2 important private faxes to Stephen Cameron, my legal counsel, both lost.

C. 3 blank sheets received from Ausrel but charged to me by Telstra.

Please now take Attachment 1 and compare it to Attachment 2. This comparison clearly shows that the 43 faxed claim documents (and their attachments) listed on Attachment 2, which were taken from my Telstra accounts over an 8 month period and which were faxed to Dr Hughes, are not included in the 11 page document at Attachment 1, which is a list of documents received by Telstra from Dr Hughes. In other words, not all the faxes I sent were received by the people they were intended for. How can these missing faxes be explained? Surely no Arbitrator would deliberately refrain from sending 43 documents and attachments on to the other party in an Arbitration? Even allowing for possible human error on the part of Dr Hughes's office, it is not possible to explain the high number of documents which were not received by Telstra.

The FTAP rules are very clear: any document received by the Arbitrator from one party during the Arbitration must be copied to the Special Counsel and the other party (in this case the other party was Telstra). Since 43 of the faxed copies of my claim documents (attachment 2) which I sent to Dr Hughes do not appear on the list which was sent back to me by Telstra (attachment 1), it is clear that very issue I was attempting to raise in my Arbitration, that is Telstra's defective network, had a twofold effect on my business:

(1) I was involved in this Arbitration so that the business I had lost over the previous 6½ years, due to network problems, could be assessed.

(2) I could not supply all the relevant documents to the Arbitrator or the resource units because of the inadequate network and my claim was therefore disadvantaged.

Obviously there was a serious network problem in the Portland or Cape Bridgewater region and this letter and attachments supports my assertions regarding the past inadequacies of the Telstra network.

I would be grateful if you would now notify me what the TIO intends to do with this further information which clearly shows that I was DOUBLY disadvantaged as a claimant in this Arbitration, firstly because my business suffered initially as a result of Telstra's past inadequate network and secondly because that inadequate network then meant that at least 43 of my claim documents where not seen or assessed by the Arbitrator, the resource units or Telstra.

I await your early response.

Sincerely,

Alan Smith

copies to:

Senator Richard Alston, Minister for Communications and the Arts, Canberra
Senator Chris Schacht, Shadow Minister for Communications, Canberra
Mr David Hawker MP, Federal Member for Wannon, Hamilton

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(2) I could not supply all the relevant documents to the Arbitrator or the resource units because of the inadequate network and my claim was therefore disadvantaged.

Obviously there was a serious network problem in the Portland or Cape Bridgewater region and this letter and attachments supports my assertions regarding the past inadequacies of the Telstra network.

I would be grateful if you would now notify me what the TIO intends to do with this further information which clearly shows that I was DOUBLY disadvantaged as a claimant in this Arbitration, firstly because my business suffered initially as a result of Telstra's past inadequate network and secondly because that inadequate network then meant that at least 43 of my claim documents where not seen or assessed by the Arbitrator, the resource units or Telstra.

I await your early response.

Sincerely,

Alan Smith

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Senator Richard Alston, Minister for Communications and the Arts, Canberra
Senator Chris Schacht, Shadow Minister for Communications, Canberra
Mr David Hawker MP, Federal Member for Wannon, Hamilton

Attachment 2

DATE SENT Month/ Year	Day	TIME SENT	DURATION (in seconds)
Sept 1994	21	02.59	0.51
Oct 1994	3	06.31	1.13
	7	05.13	0.53
	10	05.52	1.36
	10	12.25	2.46
	13	02.20	8.23
	13	07.32	0.57
	14	03.57	6.42
	17	11.50	2.04
	18	02.33	0.07
	18	02.33	3.10
	19	11.38	9.16
	23	05.42	5.17
	25	10.29	1.32
	27	07.04	1.32
Nov 1994	7	02.32	1.31
	9	03.41	1.02
	11	04.17	1.56
	24	11.24	0.46
	28	10.41	2.33
Dec 1994	5	10.09	4.24
	6	11.33	2.13

DATE SENT Month/ Year	Day	TIME SENT	DURATION (in seconds)
Jan 1995	4	05.04	1.10
	5	01.39	1.44
	16	10.28	1.38
	24	10.49	2.19
	24	04.13	4.18
	25	09.41	0.41
	25	09.42	0.41
	26	04.22	4.38
Feb 1995	15	06.58	6.20
Mar 1995	6	10.41	3.03
	24	01.17	3.33
	31	10.32	1.27
	31	1232	0.49
Apr 1995	7	2.46	1.06
	13	02.45	1.17
	17	15.27	0.21
	17	5.57	6.24
	19	10.21	1.51
	24	03.18	1.03
May 1995	1	03.16	1.43
	3	02.49	1.16

TOTAL = 41 DOCUMENTS

NOTE: some documents included multiple pages of attachments

Attachment 2

DATE SENT		TIME SENT	DURATION
Month Year	Day		(in seconds)
Sep 1994	21	02:59	0.51
Oct 1994	3	00:31	1.13
	7	05:13	0.53
	10	05:42	1.56
	11	11:25	2.46
	13	02:20	8.23
	14	07:32	0.57
	14	08:57	0.42
	17	11:50	2.04
	18	02:33	0.07
	18	02:33	3.10
	19	11:38	9.16
	24	05:42	8.17
	25	10:29	1.32
	27	07:04	1.22
Nov 1994	7	02:32	3.31
	9	03:41	1.02
	11	04:17	1.56
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	28	10:41	2.33
Dec 1994	5	10:09	4.24
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Month Year	Day		(in seconds)
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	16	10:28	1.39
	24	10:49	2.19
	24	06:13	4.18
	25	09:41	0.41
	26	09:42	0.41
	26	04:23	4.38
Feb 1995	18	06:58	6.20
Mar 1995	6	10:47	3.03
	24	01:17	8.35
	31	10:32	1.27
	31	12:22	0.40
Apr 1995	7	2:46	3.06
	13	02:46	1.17
	17	18:27	0.21
	17	8:57	6.24
	18	10:27	1.51
	24	03:18	1.03
May 1995	1	03:16	1.43
	3	02:49	1.16

TOTAL = 41 DOCUMENTS

NOTE: some documents included multiple pages of attachments