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12 July 1998

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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).

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 TJO, 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.

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 were 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

Attachment 2

DATE SENT		TIME SENT	DURATION	DATE SENT		TIME SENT	DURATION
Month/ Year	Day		(in seconds)	Month/ Year	Day		(in seconds)
Sept 1994	21	02.59	0.51	Jan 1995	4	05.04	1.10
Oct 1994	3	06.31	1.13		5	01.39	1.44
	7	05.13	0.53		16	10.28	1.38
	10	05.52	1.36		24	10.49	2.19
	10	12.25	2.46		24	04.13	4.18
	13	02.20	8.23		25	09.41	0.41
	13	07.32	0.57		25	09.42	0.41
	14	03.57	6.42		26	04.22	4.38
	17	11.50	2.04	Feb 1995	15	06.58	6.20
	18	02.33	0.07	Mar 1995	6	10.41	3.03
	18	02.33	3.10		24	01.17	3.33
	19	11.38	9.16		31	10.32	1.27
	23	05.42	5.17		31	12.32	0.49
	25	10.29	1.32	Apr 1995	7	2.46	1.06
	27	07.04	1.32		13	02.45	1.17
Nov 1994	7	02.32	1.31		17	15.27	0.21
	9	03.41	1.02		17	5.57	6.24
	11	04.17	1.56		19	10.21	1.51
	24	11.24	0.46		24	03.18	1.03
	28	10.41	2.33	May 1995	1	03.16	1.43
Dec 1994	5	10.09	4.24		3	02.49	1.16
	6	11.33	2.13				

TOTAL = 41 DOCUMENTS

NOTE: some documents included multiple pages of attachments

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TOTAL = 41 DOCUMENTS

DATE SENT	TIME SENT	DURATION	DATE SENT	TIME SENT	DURATION
Month Year		(in seconds)	Month Year		(in seconds)
Dec 1994	8	11.22	May 1995	1	07.10
	9	10.09		2	05.48
	10	10.41			1.02
	11	04.17			1.41
	12	03.41			0.34
Nov 1994	1	04.13			0.31
	2	1.03			0.57
	3	02.13			1.31
	4	07.04			1.22
	5	10.29			1.32
	6	02.43			0.17
	7	01.38			0.10
	8	02.10			0.10
	9	03.22			0.10
	10	03.22			0.07
	11	11.00			3.04
	12	03.57			0.43
	13	07.32			0.57
	14	02.30			0.13
	15	12.28			2.40
	16	08.43			1.30
	17	08.13			0.23
	18	00.71			1.13
	19	05.59			0.21
Nov 1994	20	02.04	Jan 1995	1	02.04
	21	01.39		2	01.29
	22	01.18		3	10.28
	23	04.13		4	10.40
	24	00.41		5	04.13
	25	09.43		6	00.41
	26	04.21		7	09.43
	27	00.38		8	00.38
	28	03.57		9	04.21
	29	07.32		10	09.43
	30	02.30		11	00.41
	31	12.28		12	04.13
	32	08.43		13	10.40
	33	08.13		14	10.28
	34	00.71		15	01.29
	35	05.59		16	02.04
	36	02.04		17	01.39
	37	01.39		18	01.18
	38	04.13		19	00.41
	39	09.43		20	09.43
	40	04.21		21	00.38
	41	03.57		22	03.57
	42	07.32		23	02.30
	43	02.30		24	12.28
	44	08.43		25	08.43
	45	08.13		26	00.71
	46	05.59		27	02.04
	47	02.04		28	01.39
	48	01.39		29	01.18
	49	04.13		30	00.41
	50	09.43		31	09.43
	51	04.21		32	00.38
	52	03.57		33	03.57
	53	07.32		34	02.30
	54	02.30		35	12.28
	55	08.43		36	08.43
	56	08.13		37	00.71
	57	05.59		38	02.04
	58	02.04		39	01.39
	59	01.39		40	01.18
	60	04.13		41	00.41
	61	09.43		42	09.43
	62	04.21		43	00.38
	63	03.57		44	03.57
	64	07.32		45	02.30
	65	02.30		46	12.28
	66	08.43		47	08.43
	67	08.13		48	00.71
	68	05.59		49	02.04
	69	02.04		50	01.39
	70	01.39		51	01.18
	71	04.13		52	00.41
	72	09.43		53	09.43
	73	04.21		54	00.38
	74	03.57		55	03.57
	75	07.32		56	02.30
	76	02.30		57	12.28
	77	08.43		58	08.43
	78	08.13		59	00.71
	79	05.59		60	02.04
	80	02.04		61	01.39
	81	01.39		62	01.18
	82	04.13		63	00.41
	83	09.43		64	09.43
	84	04.21		65	00.38
	85	03.57		66	03.57
	86	07.32		67	02.30
	87	02.30		68	12.28
	88	08.43		69	08.43
	89	08.13		70	00.71
	90	05.59		71	02.04
	91	02.04		72	01.39
	92	01.39		73	01.18
	93	04.13		74	00.41
	94	09.43		75	09.43
	95	04.21		76	00.38
	96	03.57		77	03.57
	97	07.32		78	02.30
	98	02.30		79	12.28
	99	08.43		80	08.43
	100	08.13		81	00.71
	101	05.59		82	02.04
	102	02.04		83	01.39
	103	01.39		84	01.18
	104	04.13		85	00.41
	105	09.43		86	09.43
	106	04.21		87	00.38
	107	03.57		88	03.57
	108	07.32		89	02.30
	109	02.30		90	12.28
	110	08.43		91	08.43
	111	08.13		92	00.71
	112	05.59		93	02.04
	113	02.04		94	01.39
	114	01.39		95	01.18
	115	04.13		96	00.41
	116	09.43		97	09.43
	117	04.21		98	00.38
	118	03.57		99	03.57
	119	07.32		100	02.30
	120	02.30		101	12.28
	121	08.43		102	08.43
	122	08.13		103	00.71
	123	05.59		104	02.04
	124	02.04		105	01.39
	125	01.39		106	01.18
	126	04.13		107	00.41
	127	09.43		108	09.43
	128	04.21		109	00.38
	129	03.57		110	03.57
	130	07.32		111	02.30
	131	02.30		112	12.28
	132	08.43		113	08.43
	133	08.13		114	00.71
	134	05.59		115	02.04
	135	02.04		116	01.39
	136	01.39		117	01.18
	137	04.13		118	00.41
	138	09.43		119	09.43
	139	04.21		120	00.38
	140	03.57		121	03.57
	141	07.32		122	02.30
	142	02.30		123	12.28
	143	08.43		124	08.43
	144	08.13		125	00.71
	145	05.59		126	02.04
	146	02.04		127	01.39
	147	01.39		128	01.18
	148	04.13		129	00.41
	149	09.43		130	09.43
	150	04.21		131	00.38
	151	03.57		132	03.57
	152	07.32		133	02.30
	153	02.30		134	12.28
	154	08.43		135	08.43
	155	08.13		136	00.71
	156	05.59		137	02.04
	157	02.04		138	01.39
	158	01.39		139	01.18
	159	04.13		140	00.41
	160	09.43		141	09.43
	161	04.21		142	00.38
	162	03.57		143	03.57
	163	07.32		144	02.30
	164	02.30		145	12.28
	165	08.43		146	08.43
	166	08.13		147	00.71
	167	05.59		148	02.04
	168	02.04		149	01.39
	169	01.39		150	01.18
	170	04.13		151	00.41
	171	09.43		152	09.43
	172	04.21		153	00.38
	173	03.57		154	03.57
	174	07.32		155	02.30
	175	02.30		156	12.28
	176	08.43		157	08.43
	177	08.13		158	00.71
	178	05.59		159	02.04
	179	02.04		160	01.39
	180	01.39		161	01.18
	181	04.13		162	00.41
	182	09.43		163	09.43
	183	04.21		164	00.38
	184	03.57		165	03.57
	185	07.32		166	02.30
	186	02.30		167	12.28
	187	08.43		168	08.43
	188	08.13		169	00.71
	189	05.59		170	02.04
	190	02.04		171	01.39
	191	01.39		172	01.18
	192	04.13		173	00.41
	193	09.43		174	09.43
	194	04.21		175	00.38
	195	03.57		176	03.57
	196	07.32		177	02.30
	197	02.30		178	12.28
	198	08.43		179	08.43
	199	08.13		180	00.71
	200	05.59		181	02.04
	201	02.04		182	01.39
	202	01.39		183	01.18
	203	04.13		184	00.41
	204	09.43		185	09.43
	205	04.21		186	00.38
	206	03.57		187	03.57
	207	07.32		188	02.30
	208	02.30		189	12.28
	209	08.43		190	08.43
	210	08.13		191	00.71
	211	05.59		192	02.04
	212	02.04		193	01.39
	213	01.39		194	01.18
	214	04.13		195	00.41
	215	09.43		196	09.43
	216	04.21		197	00.38
	217	03.57		198	03.57
	218	07.32		199	02.30
	219	02.30		200	12.28
	220	08.43		201	08.43
	221	08.13		202	00.71
	222	05.59		203	02.04
	223	02.04		204	01.39
	224	01.39		205	01.18
	225	04.13		206	00.41
	226	09.43		207	09.43
	227	04.21		208	00.38
	228	03.57		209	03.57
	229	07.32		210	02.30
	230	02.30		211	12.28
	231	08.43		212	08.43
	232	08.13		213	00.71
	233	05.59		214	02.04
	234	02.04		215	01.39
	235	01.39		216	01.18
	236	04.13		217	00.41
	237	09.43		218	09.43
	238	04.21		219	00.38
	239	03.57		220	03.57
	240	07.32		221	02.30
	241	02.30		222	12.28
	242	08.43		223	08.43
	243	08.13		224	00.71
	244	05.59		225	