

**The Hon Malcolm Turnbull,
Prime Minister of Australia**

**The Hon Barnaby Joyce
Deputy Prime Minister**

Mr Dan Tehan, Federal Member for Wannon

Ms Sue Laver, Telstra General Counsel

Mr John P Mullen, Telstra Board Chair

**Cape Bridgewater Holiday Camp
Service Verification Tests (Report)
Collision, Deception, Misleading and Deceptive Conduct**

Exhibits 11 to 23-G

**Alan Smith
Seal Cove
1703 Bridgewater Road
Portland (Victoria) 3305**

Partners
David J. Boyd
John G. Hayward
Stephen A. Gray
Stephen J. Hughes
Peter J. Johnston
John J. Kelly
Peter J. King
Thomas L. Kelly
Gordon S. Macleay
Malcolm L. Morgan
David S. Nelson
Charles Norman
Andrew Loughnan
Associates
Michael G. Mann
Robert J. Schmitt
Law Clerks
Paul A. Connor
Paul G. Ford
Ann E. Hynes
Julian A. Richardson
Joseph V. Callahan
Ray Bell

12 April 1994

Our Ref: 022

Minor No

Your Ref

BY FACSIMILE: 617 4666

Mr Peter Bartlett
Messrs Minter Ellison Morris Fletcher
Solicitors
40 Market Street
Melbourne VIC 3000

Dear Peter

COT MATTERS

On 11 April I met with John Selak and John Randall of Ferrier Hodgson to discuss the impact of the latest draft of the "Fast-Track" Arbitration Procedure on the Resource Unit.

They made the following points:

- (a) in relation to clause 8.1, services will in fact be provided by Ferrier Hodgson Corporate Advisory (Vic) Pty Ltd, not Ferrier Hodgson Chartered Accountants. Either the name should be substituted or the words "Incorporating Ferrier Hodgson Corporate Advisory (Vic) Pty Ltd" should be inserted in the third line after the words "Chartered Accountants";
- (b) also in relation to clause 8.1, technical input will be provided by DMR Inc, not DMR Group Australia Pty Ltd. DMR wishes this substitution to be made;
- (c) the above changes should be reiterated in clauses 25 and 26 as presently drafted;
- (d) further in relation to clauses 25 and 26, both Ferrier Hodgson Corporate Advisory and DMR Inc are concerned about their potential liability. As the clauses presently read, they would be liable to a maximum of \$250,000.00 per claim. This is likely to significantly exceed their professional fees in relation to each claim. Ferrier Hodgson's preference (and also the preference of DMR)

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Level 21, 450 Collins Street, Melbourne 3000, Australia. Telephone (61-3) 614 8711.

Facsimile (61-3) 614 1170. G.P.O. Box 18224, Melbourne 3001. DX 283, Melbourne.

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would be for a total exclusion of liability but, failing that, they would accept a lower cap more commensurate with their anticipated fees;

- (a) In relation to the Confidentiality Agreement appended as Schedule E, Mr Selak and Mr Ruddle believe reference should be made to the Administrator in clause 2. They would also prefer a single undertaking to be executed by Ferrer Hodgson Corporate Advisory (and another by DM&I Inc) rather than by the various individuals within the organisation. They would remain vicariously liable for breaches by their employees.

I appreciate that one claimant has already executed the agreement in its current form. The others will no doubt be pressed to do likewise over the next few days. I further appreciate you will be reluctant to introduce additional changes to the draft procedure at this delicate stage of negotiations but it is of course also fundamental that account be taken of the concerns raised by members of the Resource Unit. Perhaps the agreement should be executed in its current form and then agreement sought from the parties to vary the terms to take into account any proposals by Ferrer Hodgson or DM&I which you agree are reasonable.

Could I suggest that you liaise direct with Mr Selak or Mr Ruddle about these concerns? Perhaps they could also speak direct to Warwick Smith.

Yours sincerely



cc W Smith
J Selak, J Ruddle

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MINTER ELLISON MORRIS FLETCHER
BARRISTERS AND SOLICITORS

40 MARKET STREET
MELBOURNE VICTORIA
TELEPHONE (03) 617 4617
FACSIMILE (03) 617 4666
DX 204 MELBOURNE
Postal address
GPO BOX 7990
MELBOURNE VIC 3001
AUSTRALIA

FACSIMILE TRANSMISSION

DATE 13 April 1994

TO Ann Garns
Facsimile number (07) 892 3739FROM Peter Bartlett
MINTER ELLISON MORRIS FLETCHER MELBOURNE
Our reference PLE 928549

SUBJECT Cot Claims

NOTE

If you do not receive page(s) including this one, please telephone MINTER ELLISON MORRIS FLETCHER (03) 617 4623 as soon as possible.

IMPORTANT

The contents of this facsimile (including attachments) may be privileged and confidential. Any unauthorised use of the contents is expressly prohibited. If you have received the document in error, please advise us by telephone (reverses charges) immediately and then shred the document. Thank you.

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Mr Paul Rumble
National Manager-Customer Response Unit
Telcom Australia
Level 8
242 Exhibition Street
Melbourne Victoria 3000

by being delivered by hand or sent by prepaid mail.

Liability of Administrator and Arbitrator

24. Neither the Administrator nor the Arbitrator shall be liable to any party for any act or omission in connection with any arbitration conducted under these Rules save that the Arbitrator (but not the Administrator) shall be liable for any conscious or deliberate wrongdoing on the Arbitrator's own part.
25. The liability of Ferrier Hodgson and the partners and employees of Ferrier Hodgson for any act or omission in connection with any arbitration conducted under these rules (other than in relation to a breach of their confidentiality obligations) shall be limited to \$250,000 jointly.
26. The liability of DMR Group Australia Pty Ltd and the directors and employees of DMR Group Australia Pty Ltd for any act or omission in connection with any arbitration conducted under these rules (other than in relation to a breach of their confidentiality obligations) shall be limited to \$250,000 jointly.

Return of Documents after Arbitration

27. Within 6 weeks of publication of the Arbitrator's award, all documents received under this Procedure by the parties, the Administrator, the Resource Unit and/or the Arbitrator and all copies thereof, shall be returned to the party who lodged such documents.

4/1/2001



Hunt & Hunt LAWYERS

FACSIMILE TRANSMISSION

Our Ref: GLH

Matter No: 5122795

Date: 19 April 1994
To: MR. WILLIAM HUNT
Fax No: 670 6598
From: CAROLINE FRIEND
Subject: TIO ARBITRATION PROCEDURE

Partners
Edward S Boyce
James G.F. Harrowell
Christine A. Galley
Gordon L. Hughes
Mark T. Knapman
Ian S. Craig
Peter J. Bwin
Wayne B. Cahill
Neville C.H. Debnay
Grant D. Sefton
Charles Vaevas
Andrew Logie-Smith

Consultants
Kenneth M. Martin
Richard J. Kellaway

Associates
Peter A. Cornish
Shane C. Hind
John S. Molnar
Melissa A. Henderson
Francis V. Galichio
Roy Zeit
Randal P. Williams

Further to my telephone discussion with Mr. Graham Schorer of todays date, at his request, I attach for your attention a copy of the "Fast Track" Arbitration Procedure of 31st March 1994.

File

Golden re

COT Cases

Yours faithfully,

Hunt & Hunt
HUNT & HUNT

Att.

Melbourne

Sydney

Sydney West

Brisbane

Canberra

Newcastle

Perth

Darwin

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Hunt & Hunt LAWYERS

FACSIMILE TRANSMISSION

Our Ref: GLR
Matter No:

Date: 19 April 1994
To: MR GOLDBERG
Fax No: 670 8389
From: CAROLINE FRIEND
Subject: TIO ARBITRATION

Partners
Edward S Boyce
James G.F. Harrowell
Christine A. Galley
Gordon L. Hughes
Mark T. Knapman
Ian S. Craig
Peter J. Smith
Wayne B. Cahill
Neville G.H. Dobney
Clare D. Sifton
Charles Veveas
Andrew Logie-Smith
Counselors
Kenneth M. Martin
Richard J. Kellway
Associates
Peter A. Cornish
Shane G. Hind
John S. Mohr
Melissa A. Henderson
Francis V. Galichio
Ray Salt
Randal F. Williams

Further to my telephone discussion with Mr. Graham Schorer of todays date, please find attached "Fast Track" Arbitration Procedure as of 31st March 1994 for your attention.

Yours faithfully
Hunt & Hunt
HUNT & HUNT

Att.

We are transmitting 20 (twenty) pages (including this cover sheet). If you have problems with this transmission call

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not strictly liable or has no obligation to pay, due to a statutory immunity covering that period or periods, Telecom Australia should, having regard to all the circumstances relevant to the Claimant's claim, pay an amount in respect of such a period or periods and, if so, what amount.

When does the liability arise, if not for

10.1.2 ^{may} set off against any amounts found by the Arbitrator to be otherwise owing by Telecom Australia to the Claimants any amounts paid to, rebates granted to, or services carried out for the Claimant by Telecom Australia to date.

and

How does it come before Arbitrator

10.2 In relation to the Claimant's loss, the Arbitrator:

10.2.1 will take into account the Claim and Defence Documents, any Reply and supporting documents, written evidence and submissions made by the parties and, if applicable, any sworn or affirmed oral evidence presented to the Arbitrator by the parties to the arbitration together with any information obtained by the Resource Unit or any advice given to him by the Resource Unit.

10.2.2 will make a finding on reasonable grounds as to the causal link between the alleged service difficulties, problems and faults in the provision to the Claimant of telecommunication services and the losses claimed and, as appropriate, may make reasonable inferences based upon such evidence as is presented by the parties together with any information obtained by

Mr Paul Rumble
National Manager-Customer Response Unit
Telecom Australia
Level 8
242 Exhibition Street
Melbourne Victoria 3000

by being delivered by hand or sent by prepaid mail.

Liability of Administrator and Arbitrator

24. Neither the Administrator nor the Arbitrator shall be liable to any party for any act or omission in connection with any arbitration conducted under these Rules save that the Arbitrator (but not the Administrator) shall be liable for any conscious or deliberate wrongdoing on the Arbitrator's own part.
25. The liability of Ferrier Hodgson and the partners and employees of Ferrier Hodgson for any act or omission in connection with any arbitration conducted under these rules (other than in relation to a breach of their confidentiality obligations) shall be limited to \$250,000 jointly.
26. The liability of DMR Group Australia Pty Ltd and the directors and employees of DMR Group Australia Pty Ltd for any act or omission in connection with any arbitration conducted under these rules (other than in relation to a breach of their confidentiality obligations) shall be limited to \$250,000 jointly.

Return of Documents after Arbitration

27. Within 5 weeks of publication of the Arbitrator's award, all documents received under this Procedure by the parties the Administrator, the Resource Unit and/or the Arbitrator and all copies thereof, shall be returned to the party who lodged such documents.

not strictly liable or has no obligation to pay, due to a statutory immunity covering that period or periods, Telecom Australia should, having regard to all the circumstances relevant to the Claimant's claim, pay an amount in respect of such a period or periods and, if so, what amount.

10.1.2 set off against any amounts found by the Arbitrator to be otherwise owing by Telecom Australia to the Claimants any amounts paid to, rebates granted to, or services carried out for the Claimant by Telecom Australia to date.

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10.2.1 will take into account the Claim and Defence Documents, any Reply and supporting documents, written evidence and submissions made by the parties and, if applicable, any sworn or affirmed oral evidence presented to the Arbitrator by the parties to the arbitration together with any information obtained by the Resource Unit or any advice given to him by the Resource Unit.

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10.2 In relation to the Claimant's loss, the Arbitrator:

10.2.1 will take into account the Claim and Defence Documents, any Reply and supporting documents, written evidence and submissions made by the parties and, if applicable, any sworn or affirmed oral evidence presented to the Arbitrator by the parties to the arbitration together with any information obtained by the Resource Unit or any advice given to him by the Resource Unit.

10.2.2 will make a finding on reasonable grounds as to the causal link between the alleged service difficulties, problems and faults in the provision to the Claimant of telecommunication services and the losses claimed and, as appropriate, may make reasonable inferences based upon such evidence as is presented by the parties together with any information obtained by

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Handwritten signatures and initials

Mr Paul Rumble
National Manager-Customer Response Unit
Telecom Australia
Level 8
242 Exhibition Street
Melbourne Victoria 3000

by being delivered by hand or sent by prepaid mail.

Liability of Administrator and Arbitrator

24. Neither the Administrator, the Arbitrator, the Special Counsel, a partner or employee of the legal firm of which the Special Counsel is a partner, a member of the Resources Unit, Ferrier Hodgson or a partner or employee of Ferrier Hodgson, DMR Group Australia Pty. Ltd. or a Director or employee of DMR Group Australia Pty. Ltd. shall be liable to any party for an act or omission in connection with any arbitration conducted under these Rules or involved in the preparation of these Rules save that the Arbitrator (but not the Administrator) shall be liable for any conscious or deliberate wrongdoing on the Arbitrator's own part.

Return of Documents after Arbitration

25. Within 6 weeks of publication of the Arbitrator's award, all documents received under this Procedure by the parties the Administrator, the Resource Unit and/or the Arbitrator and all copies thereof, shall be returned to the party who lodged such documents.

Conflict of Rules

26. In the event of any inconsistency between these rules and the provisions of the Act, these rules shall prevail to the extent of that inconsistency.

Strickland
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IMPORTANT: WE ARE NOT COMMON CARRIERS. The Carrier directs your attention to its trading TERMS AND CONDITIONS OF CONTRACT. It is in your interests to read them to avoid any later confusion.

To: Dr. Gordon Hughes
Company: The Arbitrator for
Telecom / COT Cases
"FAST-TRACK" arbitration procedure
incorporating the FAST-TRACK
SETTLEMENT PROPOSAL

Date: 25 May 1994
Fax No: 03 614.8730

From: Graham Schorer
Total Pages (Incl. Header) 2

MAILED: YES (X) NO ()

Dear Dr. Hughes,

Due to circumstances and events experienced beyond the direct and/or indirect control of Graham Schorer plus other related claimants, companies etc., I am formally applying for an extension of time on behalf of Graham Schorer plus other related claimants, companies etc., pursuant to Clause 7.1 in the "Fast-Track" arbitration procedure to enable Graham Schorer plus other related claimants, companies etc. to finalise their interim claim for losses due to telephone service difficulties, problems and faults experienced.

In this letter henceforth, please accept that all that is stated relates to and includes both Graham Schorer and the other related claimants and companies connected with him.

It is respectfully requested that an extension of time to submit the Interim Statement of Claim be granted to at least 15 June next.

The reason for the request are as follows:-

1. A substantial burglary in Golden's premises on the 4 March, 1994 and the theft of vital equipment and records.
2. The inability of suppliers to replace the equipment until 17 April 1994.
3. The consequent difficulties in conducting any business accentuated by external auditors commencing part of their annual audit from 9 May last.
4. The requirement commencing from 2 May, 1994 to devote the entire staff as fully as possible to maintain a substantial part of its business with Westpac Bank and add A.N.Z.'s business. Competitive quotations had been called for by the A.N.Z. Bank.

Should Golden's quote be considered to be of great merit, placing Golden on the A.N.Z short list of selection.

Golden will be required to become immediately immersed in an extensive exercise requiring long hours to finalise a massive transport logistic exercise, which will involve Golden's current customer Westpac and the A.N.Z. to determine what additional savings can be enjoyed by A.N.Z. (and Westpac) as a result of Golden being able to provide to both A.N.Z. and Westpac shared services where appropriate without loss of service standards.

Since the initial indicators of savings to be identified in engaging in such a potential time and resource consuming logistic exercise to confirm the belief of a minimum of 15% up to 20 - 25% savings to both parties, where a future need may arise to substantiate savings to be gained of this magnitude on a

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493-495 Queensberry Street, NORTH MELBOURNE VIC. 3051

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