

## Perversion of the Course of Justice

On the 28 November 1995, six months after my arbitration, I received evidence confirming that the Government owned carrier (the defendants in my arbitration) had actually carried out two separate investigations of my EXICOM TF200 touch-phone, two weeks apart, and that the second test report dated between 24 and 26 May 1994, proved that the first one, which had been provided to the arbitrator, was not a true account of the testing process at all but was a total fabrication. Photos and graphs (see Exhibit AS 1 and 2 attached below) show laboratory staff proved that, when wet beer was introduced into a TF200 phone it dried out completely in forty-eight hours. My phone, however, was collected from my business on 27 April 1994 and not tested until 10 May – a gap of fourteen days.

It is alarming to note that the defendants arbitration TF200 EXICOM report discusses various stages of the testing process from between 10 May and 20 June 1994, and clearly shows that even though the defendants knew their 24 to 26 May 1994 second investigation had proved the first arbitration report dated between 10 and 12 May 1994, was more than fundamentally flawed, they still submitted this *first* flawed report to the arbitrator as their true findings.

The arbitrator allowed the Telecommunications Industry Ombudsman (who was also the administrator of my arbitration process) to bring the arbitrator's wife into play when the arbitrator used a perfectly innocent telephone call that I made to his home at 8.02 pm (the first and only time I ever telephoned the arbitrator at his home), six months after the end of my arbitration. I made that call on 28 November 1995, because I had finally received, from the defendants, various Freedom of Information (FOI) documents that had originally been withheld from me during my arbitration by the defendants. This fresh evidence proved that the defendants had knowingly submitted, to the arbitrator, only one of two technical reports that had been prepared, two weeks apart, one saying that the EXICOM TF200 touch-phone collected from my premises was very dirty when it was received at the defendant's laboratory, (see Exhibit AS 3 and AS 4) and that a sticky substance (labelled as beer) had been spilt into the phone, causing the ongoing lock-up problems with my service lines. The second version of the report was prepared because one of the defence liaison officers did not believe the first version: the second version noted that beer could not have been the cause of the problems because it would have dried out within 48 hours of any spillage into the phone and that photos taken when the phone was originally received clearly show that it was perfectly clean when it arrived at the laboratory (see Exhibit AS 5 and AS 6).

Eventually the arbitrator found in favour of the defendants regarding this 'wet and sticky' beer issue without, as the technical findings in his award show i.e. NO investigating regarding my claims that the new installed TF200 EXICOM was still locking-up was ever undertaken.

If the defendants had submitted the second report (dated June 1994) as part of their 12 December 1994 arbitration defence, then the arbitrator would have ordered his technical unit to investigate, and they would then have learned that, even though the defendants had installed a brand new TF200 EXICOM phone at my business, still the problems continued. They would have also uncovered various other reports and documents that show that (1) this particular brand of phone, manufactured after April 1993, was known to lock-up in moisture-prone areas like Cape Bridgewater Bay – where moisture is prevalent – and (2) that the then-government-owned telecommunications carrier had redeployed some 350,000 of these phones back into circulation see (Exhibit AS 7) leaving their technicians to decide where they should be deployed. If the arbitrator's technical advisors had known this about the TF200 phone, surely they would have immediately demanded a phone from a different manufacturer? Because of the defence's disgraceful submission of false evidence however, this second TF200 phone remained in my office until I was forced to sell my business in December 2001, because no-one from the TIO's office would investigate my continuing

complaints; not just the ongoing lock-up problems but also all the other telephone problems, including incorrect accounts, that continued after the end of my arbitration, on all my business phone lines.

On the 12 May 1995 on the very day that the arbitrator was writing his letter to explain to the TIO that there were serious problems "...which had revealed themselves during the Smith arbitration", the TIO was busy sending out a media release announcing the successful conclusion of the "... first COT case arbitration". According to this official release, the TIO noted that:

*"... the arbitration process had been run in accordance with principles of natural justice".*

And was there ever an announcement to the public regarding the arbitrator's assessment that the process used to arrive at this conclusion was itself faulty? No, of course not. And did I ever get the opportunity to let the public know that THE TF200 beer-in-the-phone report – had been fraudulently manufactured? No, of course not. And did this announcement make any mention of the fact that, regardless of the findings, the faults continued to plague my business? No, of course not!

After I raised this TF200 alleged found 'sticky wet beer' in my telephone with the Institute of Arbitrators Australia the arbitrator responded in his own letter of 23 January 1996, to the TIO under the heading Institute of Arbitrators - Complaint by Alan Smith noting

*"...I enclose copy letters dated 18 and 19 January 1996 from the Institute of Arbitrators. I would like to discuss a number of matters which arise from these letters, including "...the cost of responding to the allegations and the implications to the arbitration process if I make a full and frank disclosure of the facts to the President"*

Even worse if that is at all possible, among documents I received in 2001/2 from the TIO's office was a copy of a letter dated 13<sup>th</sup> February 1996, from the arbitrators project manager to my case asserting that the Victoria Police Brighton CIB were about to question me in relation to criminal damages to his property. Letter's held by the TIO office confirms that the Victoria Police Brighton CIB never considered me to be a suspect in relation to any crime committed in Brighton or any location in the State of Victoria, or for that matter, in Australia.

These false allegations were then sent by the arbitrator to the then the President of the Institute of Arbitrators Australia, thereby stopping the President from investigating my valid claims against the appalling way in which my arbitration had been conducted.

If there was criminal damage to arbitration project manager's Brighton residence as he alleged, then surely the Victoria Police Brighton CIB would have eventually informed him that I was not interviewed – or even considered to be a suspect.

So far there have been three separate investigations into the failure of the arbitration process, starting with the Institute of Arbitrators Australia in 1996 (with no findings ever handed down) and ending with a third investigation by the IAMA, starting in July 2009, but still without any findings being released (see my LinkedIn 12-page Summary).

26/5/94

Residue in Touchphone 200  
for Doug Kitchin



Beer residue  
(dried overnight)  
at RT

beerres.dt

256 scan  
on diamond (sig  
100 x 100 pm ap.  
Ar: purge.



Beer residue  
not completely  
dried

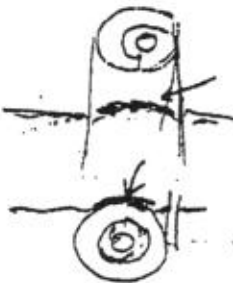
beerreslq.dt

— " —

bram, viscous liq.  
on phone

foine/lq.dt

— " —



beerresgl.dt = beerresin + glycerol + H<sub>2</sub>O

glycerol = glycerol.dt

coffee.dt (internal)  
1 + 1 teaspoon coffee + sugar  
(sucrose)  
- white

Exhibit AS 1

copy from original  
laboratory notebook  
of Doug Kitchin  
24/5/94

A64535

UTW-MicroZ Display - Spectrum7

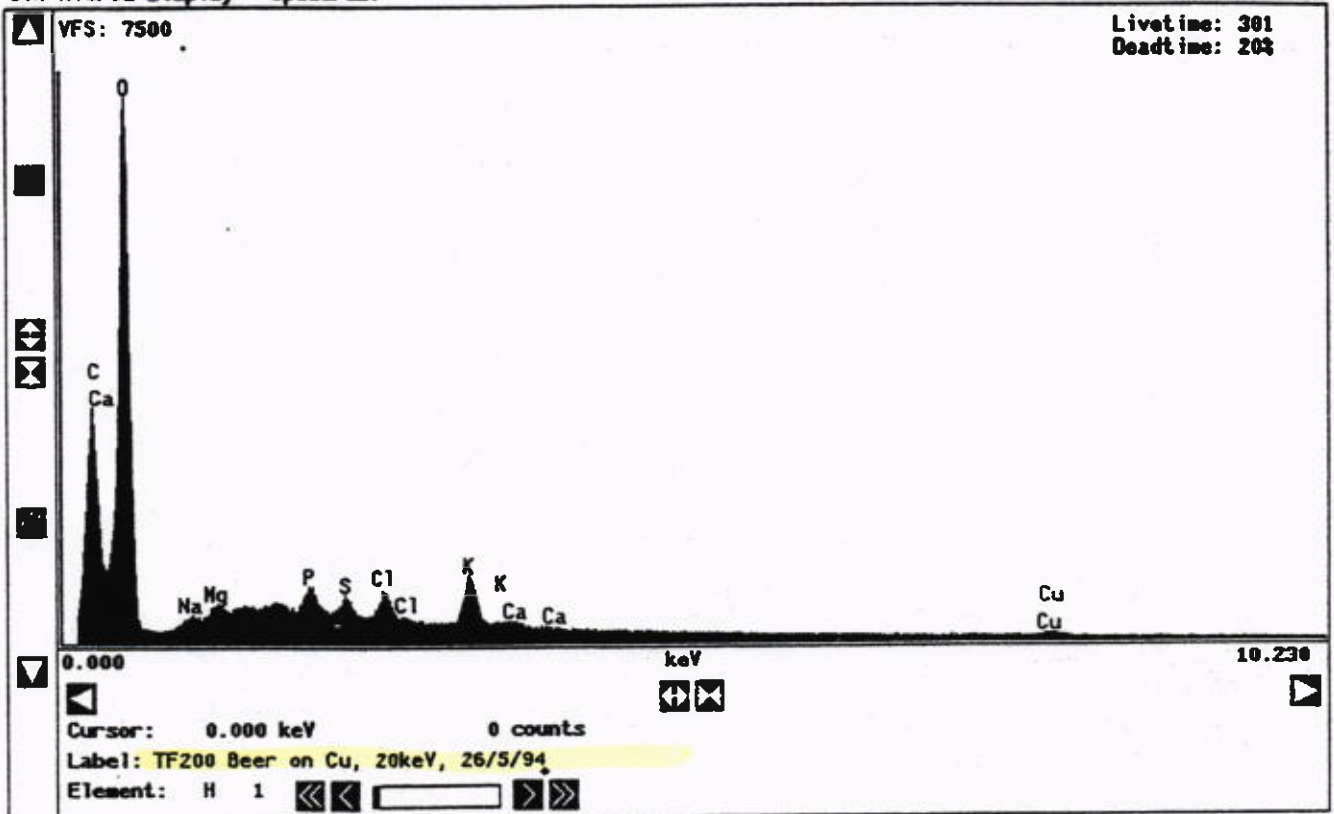


Exhibit AS 2

A64559

328

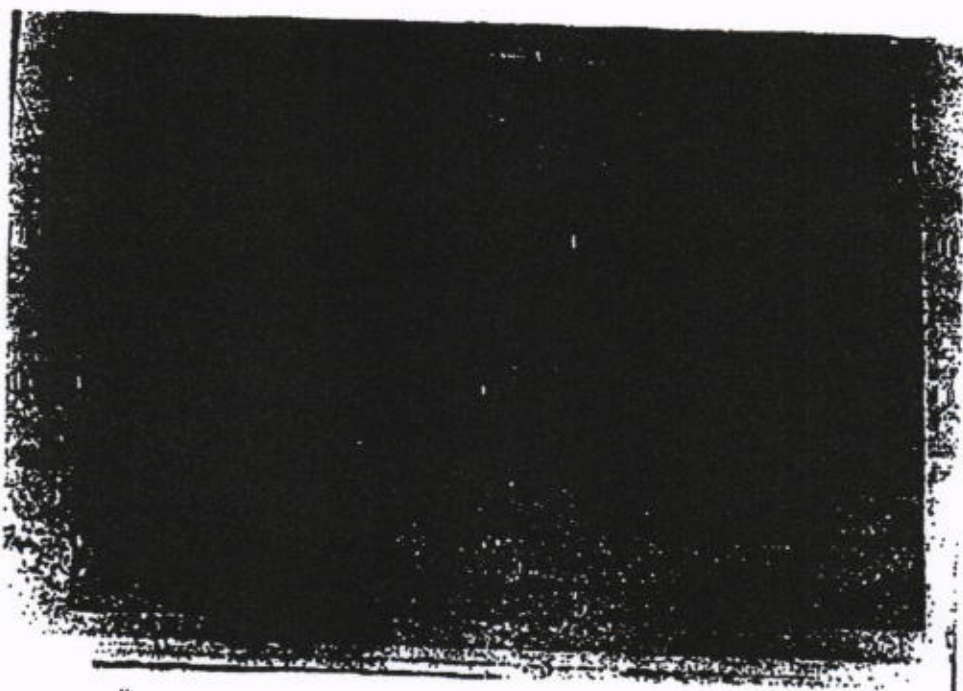


Photo 5. Close-up of label stuck to case above keypad

**Keypad Very Dirty ?**

**Exhibit AS 3**



Photo 3. Close-up of keypad indicating dirty condition and showing customer's number

Keypad Very Dirty ?

Exhibit AS 4

23

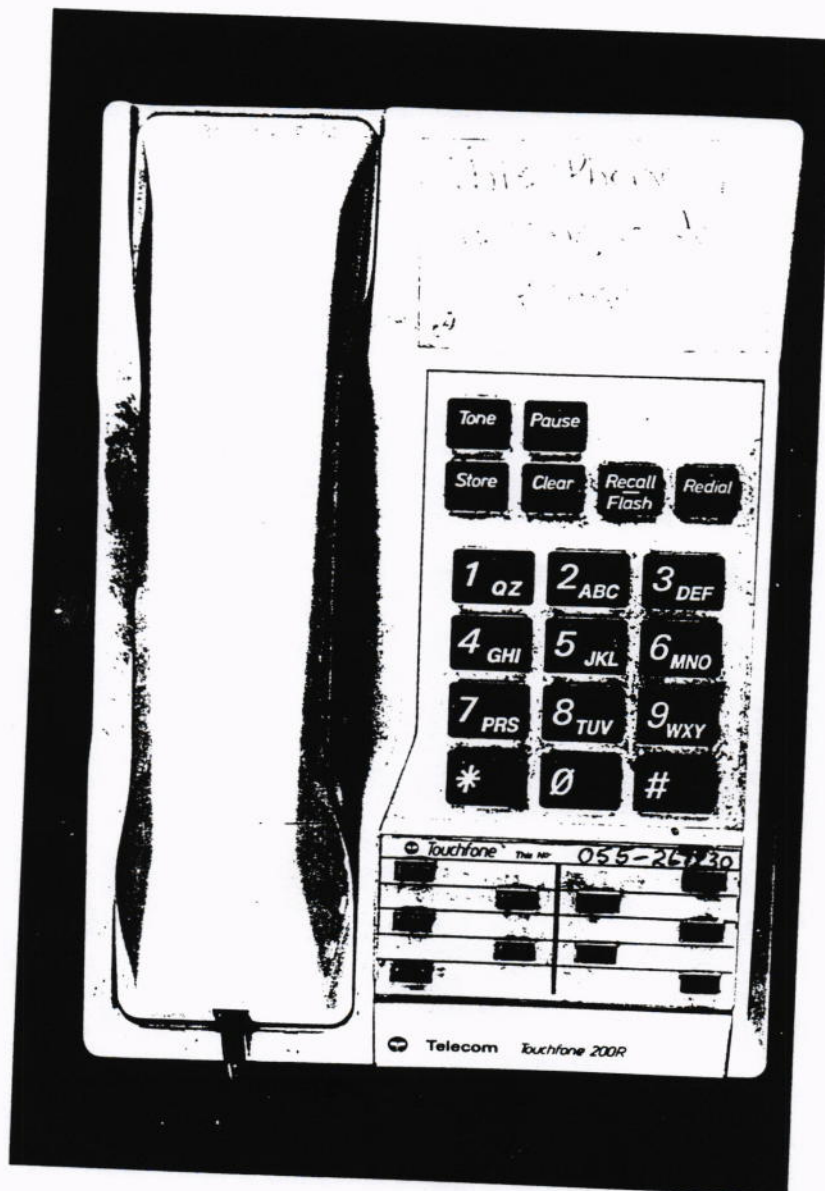


Photo 1. Front view of COT TF200

**Keypad Quiet Clean**

**Exhibit AS 5**





This Phone  
is being out  
placed

Photo 5. Close-up of label stuck to case above.

**Keypad Quiet Clean**

**Exhibit AS 6**

**EDCOM TELEPHONES.**

With the onset of the "wet" season in Northern Australia it has become apparent that we are having a significantly higher fault rate with T 200 telephones that would have been normally expected. The problem was first apparent in Darwin but it has been closely followed by Cairns and Townsville. Over the past weeks the problem has reached Southern Queensland.

The most common fault is line looping which can either be permanent or intermittent. A related problem is that the phone loops the line after a single burst of ring. The called party has not answered but the phone is off the hook and sometimes the calling party can hear all activity at the called end. In this case the call would also appear on the billing record as a short duration call. Breakthrough Billing have been informed of this possibility.

Tests were carried out by TRL and the problem isolated to the Edcom flexible keypad circuit layers which were manufactured after week 7 of 1993. Edcom are the sole supplier of Serial 550/141 "tropicalised" telephones which are treated with conformal coating and these phones are deployed in areas of high humidity. High humidity is the specific condition most likely to bring about the fault. Therefore in areas of high humidity we have a potential major fault problem.

**DEPLOYMENT.**

Whilst I do not have the total deployment of Edcom phones available it has been assessed that there is approximately 450,000 phones with potential faults. Of these there are 325,000 Serial 550/141 phones deployed in areas of high moisture. Approximate deployment of the Serial 550/141 phones since April 1993 is:

Queensland	225000
Darwin	9000
Western Australia	90000

In these areas virtually all T200's installed or used as replacements during maintenance have a potential problem. In addition there are some 125000 in other areas.

**IMPACT.**

Darwin.  
The problems in Darwin have been addressed. Since December no more Edcom phones have been used. All supplies have been sourced from Alcatel and whilst these do not have the conformal coating tests indicate that they are performing satisfactorily. Whilst there are still phones in-situ with potential defects the situation is considered manageable.

Queensland  
The Queensland situation is very serious. The situation has progressively worsened as the wet has moved south. It has significantly worsened over the past two weeks as cyclone Raza has moved off the Queensland Coast and brought with it very heavy storm activity and high moisture conditions. The effect in Queensland is that in January we are experiencing the need to replace phones at the rate of 12000 a month compared to the expected 8500. Under the present Union agreements each of these replacements require a visit by field staff.

In Queensland we have taken the following actions:

1. Following the success of the trial of the Alcatel phone in Darwin, supplies of Edcom phones to Queensland have ceased and all further phones used will be sourced from Alcatel. Because of the supply problems Edcom phones will still have to be deployed in areas of lower moisture risk.
2. We still have a heavy backlog of work due to the impact of Cyclone Raza. Staff have been recalled on duty and over the weekend we have loaned all available staff from G & G, Pay phones, CED to work with the SOU to replace telephones. Whilst this may overcome the present problem it does not offer a sustainable long term solution.