

(3)

Issues Involved During the Resolution - Factors Considered

- 1. Alan requested [redacted]
- 2. Chances of legal action - high
- 3. Chances of media action - 100%
- 4. Poor performance of Telecom:
  - historically
  - March <sup>2012</sup> problem
  - Local Portland problem fixed in October
  - wiring and cabling issues
  - RVA on congestion

5. Slow resolution of past problems both technical and claims

- 6. COT involvement:
  - chances of class action
  - chances of mass media action
  - chances of membership growth
  - Adelaide Pizza
  - Mt Gambia
  - Portland

- 7. Evidence of problems:
  - Many letters stating the problem of not getting through to Alan Smith
  - People prepared to make statements of problems
  - Claims that Alan had rung himself from his Goldphone and not got through
  - Austel and Ombudsman both had trouble getting through
  - Many claims which might be difficult to substantiate in court but would be credible in the media
  - Viability of business for the future - increased bookings since the service

- 8. Costs incurred:
  - Additional phone calls to chase up business - about \$ [redacted]
  - Legal costs - about \$ [redacted]
  - Camps prepared but not run
  - Advertising
  - Time

9. Alan's time and other consequential costs - health, stress, etc

Telecom Secret

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evidence and claims. I do not believe it would be in Telecom's interest to have this case go to court.

Overall, Mr Smith's telephone service had suffered from poor grade of network performance over a period of several years; with some difficulty to detect exchange problems in the last 8 months.

In the media Telecom would not have looked good at a time when we are working hard to improve general customer perceptions.

In a legal battle, Telecom's chance of winning would have to be about 50/50. The bad publicity for Telecom would have been significant.

In my view were Alan Smith to win a legal battle he could have been awarded payment as high as \$ [redacted]. If we went to arbitration a payout of the order of \$ [redacted] would not be out of the question; with costs of setting up the arbitration extra.

In the interests of expediency and Commercial judgement I considered it better to reach a commercial settlement.

Mr Smith's communication arrangement is questionable:

- other ways eg second line, fax, 008, etc of contacting him not set up
- use of answering machine improper or incorrect
- answering arrangements when Mr Smith was not there *not satisfactory*
- Telecom's defence in some doubt on causality

*These are the payment notes received at the time of settlement. Alan Smith did not agree to provide better substantiation of his claim.*

*Thomas Pittard*