

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

**Mr Dan Tehan, Federal Member for Wannon**

**Ms Sue Laver, Telstra General Counsel**

**Mr John P Mullen, Telstra Board Chair**

**The Hon Barnaby Joyce**

**Deputy Prime Minister**

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

**Exhibits 1-A to 10-B**

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

Identification of the cause would allow rectifying action to be taken and establishment of incidence would provide a basis for the calculation of any compensation which may be payable.

5.4 If the *original COT Cases'* stance (experiencing) were to be adopted, the first step would simply require Telecom personnel to experience that the claimed faults were indeed presenting problems to the business. The *original COT Cases* took the view that sufficient monitoring and testing of their services had taken place to allow Telecom to be satisfied that the problems were real. Also, given that in some cases the disputes extended for up to 7-8 years without Telecom identifying the cause of the faults, they were unwilling and financially unable to await Telecom's identification of the problem before compensation negotiations commenced. Moreover, they had a concern that if a settlement amount could not be agreed, the matter would be subjected to arbitration rather than a simple assessment of loss which they favoured. Their concern was that an arbitrator might find fault on the part of Telecom but might conclude that the fault was reasonable and therefore might award only a proportion of the losses they had incurred as a result of the service difficulties that they had experienced.

5.5 Telecom also wished to rectify as quickly as possible any faults affecting its service and to be satisfied that, at that point, all parties agreed on the fact that a normal service was being provided.

5.6 Given the extent of testing and monitoring which had taken place and Telecom's failure to identify the cause of the faults over a period of years, AUSTEL supported the *original COT Cases* in their stance.

#### **The internal Telecom loop**

5.7 Argument on that general theme continued. By letter dated 23 September 1992, Telecom's Group Managing Director, Commercial and Consumer, informed Mr Schorer as spokesperson for the *original COT Cases* -

*"The key problem is that discussion on possible settlement cannot proceed until the reported faults are positively identified and the performance of your members' services is agreed to be normal. As I explained at our meeting, we cannot move to settlement discussions or arbitration while we are unable to identify faults which are affecting these services. At this point I have no evidence that any of the exchanges to which your members are attached are the cause of problems outside normal performance standards. Until we have an understanding of these continuing and possibly unique faults, we have no basis for negotiation or settlement.*

**I-A**

Facsimile



To Ross Anderson  
Company Telecom Portland  
Facsimile 055 236 56  
From Alan Barrow  
P.T.T.O.1  
Subject COT Case

Network Products  
National Facsimile Support Centre  
23 rd Floor 242 Exhibition St.  
Melbourne, 3000

Australia  
Telephone 03 634 0000  
Facsimile 03 640 0007

K01489

Date 29 October 1993

Re:

The following pages are copies of my fax machines journal and the protocol printouts of failed calls.

On the date of 28-OCT-93 we were trying to create a line failure condition that would re-produce the same error on the transmitting machine and no record on the receiving Mitsubishi machine (055 267 230). The reason for this was to show that a sending fax machine could get to the point of transmitting a page to the Mitsubishi fax machine without the Mitsubishi machine having any record of the call.

The COT case call in question was the 27-10-93 at 10:46 on the journal (it is suspected that the clock in this machine is approx 11 hours and 12 minutes in error). The duration of the transmitting machine page of 2:21 minutes suggests that the call failed at the end of the page, possibly when requesting a reply from the receiving end. The presence of the ID in the journal of "055 267230" indicates the call was connected to the Mitsubishi fax machine in question. The receiving machine has no matching entry in its journal for this call.

A call was placed to 055 267230 and connectivity terminated at the beginning of the page but this resulted in an error of NG in the journal along with the ID of the calling fax machine. The only way to reproduce the conditions experienced above was to interrupt the power on the receiving Mitsubishi fax machine. This would result in an entry in the transmitting machine and no entry whatsoever in the receiving Mitsubishi machine.

During testing the Mitsubishi fax machine, some alarming patterns of behaviour were noted, these affecting both transmission and reception. Even on calls that were not tampered with the fax machine displayed signs of locking up and behaving in a manner not in accordance with the relevant CCITT Group 3 fax rules. A half A4 page being transmitted from this machine resulted in a blank piece of paper 4cm long. the relevant protocol printout in sample #2 shows that the machine sent the correct protocol at the end of the page. Even if the page was sent upside down the time and date and company name should have still appeared on the top of the page, it wasn't. During a received call the machine failed to respond at the end of the page even though it had received the entire page (sample #3). The Mitsubishi fax machine remained in the locked up state for a further 2 minutes after the call had terminated, eventually advancing the page out of the machine.

Regards  
Alan Barrow

1 B

My Telstra account for my fax line, below, also covers the time span during which I sent these faxes.

Account 778 7288 200

Issue Date 01 Mar 99

Page 4

Item **STD Calls - Itemised** *continued*

**STD calls** *continued*

Item	Date	Time	Place	Number	Rate	Min:Sec	\$
	<b>Telephone Service 03 5528 7285</b> <i>continued</i>						
247	21 Feb	06:15 pm	Melbourne	0398761853	Economy	1:17	0.33*
248	21 Feb	06:17 pm	Melbourne	0398761254	Economy	0:50	0.27*
245	21 Feb	06:39 pm	Colac	0352322449	Economy	1:08	0.30*
218	22 Feb	12:12 pm	Melbourne	0392877099	Day	8:40	2.55*
221	22 Feb	12:26 pm	Melbourne	0395266614	Day	2:34	0.86*
219	22 Feb	12:32 pm	Melbourne	0395266614	Day	0:07	0.18*
222	22 Feb	12:33 pm	Melbourne	0395266616	Day	9:30	2.78*
258	22 Feb	02:41 pm	Melbourne	0398761254	Afternoon	4:05	1.17*
271	22 Feb	03:40 pm	Warrambool	0355516193	Afternoon	1:35	0.41*
273	22 Feb	04:31 pm	North Geelong	0362794444	Afternoon	0:55	0.37*
236	22 Feb	08:08 pm	Melbourne	0398761254	Economy	1:08	0.31*
194	22 Feb	09:12 pm	Warrambool	0355514038	Economy	1:14	0.28*
207	24 Feb	07:42 pm	Melbourne	0395114336	Economy	17:22	2.55*
213	24 Feb	08:30 pm	Grovedale	0352414045	Economy	3:39	0.85*
284	24 Feb	08:34 pm	Melbourne	0395538030	Economy	34:05	3.00*
285	24 Feb	09:19 pm	Buderim	0754453198	Economy	14:03	2.10*
288	24 Feb	09:57 pm	Buderim	0754453198	Economy	1:09	0.31*
215	25 Feb	09:41 am	Melbourne	0392877099	Day	18:22	5.24*
217	25 Feb	10:00 am	Melbourne	0392877001	Day	2:13	0.76*
223	25 Feb	11:41 am	Grassmere	0388854227	Day	3:11	0.73*
224	25 Feb	11:58 am	Port Fairy	0388881067	Day	1:36	0.44*
198	25 Feb	12:26 pm	Melbourne	0392877099	Day	8:58	2.83*
263	25 Feb	01:07 pm	Melbourne	0392877099	Afternoon	1:05	0.42*
258	25 Feb	03:51 pm	Melbourne	0398761254	Afternoon	4:50	1.35*
259	25 Feb	03:56 pm	Melbourne	0398761853	Afternoon	1:02	0.41*
267	25 Feb	03:57 pm	Melbourne	0398761254	Afternoon	1:34	0.54*
237	25 Feb	06:46 pm	Melbourne	0392877001	Afternoon	0:52	0.37*
209	25 Feb	07:18 pm	Melbourne	0398761853	Economy	1:19	0.33*
195	26 Feb	08:39 am	Melbourne	0388761853	Day	0:57	0.41*
244	26 Feb	10:48 am	Melbourne	0398761254	Day	0:19	0.24*
243	26 Feb	10:55 am	Melbourne	0392877001	Day	0:47	0.37*
229	26 Feb	11:05 am	Melbourne	0392877099	Day	10:12	2.97*
228	26 Feb	11:20 am	Melbourne	0392877001	Day	1:57	0.69*
227	26 Feb	11:24 am	Canberra	0262711000	Day	0:10	0.20*
236	26 Feb	11:46 am	Melbourne	0392877099	Day	7:40	2.27*
197	26 Feb	01:04 pm	Melbourne	0392877099	Afternoon	7:55	2.13*
198	26 Feb	01:37 pm	Melbourne	0392877001	Afternoon	0:45	0.34*
277	28 Feb	03:38 pm	Melbourne	0392877099	Afternoon	0:35	0.30*
276	28 Feb	04:01 pm	Melbourne	0392877099	Afternoon	2:32	0.78*

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SID : GOLDEN

Number L1 : 613 9287 7881  
 Number L2 :

Date : 25-02-99 14:14

1 D

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Date/Time	Subscriber	Mode	Pages	Durat.	Status	Note
25-02 16:29	3266229	FINE	1	2'14"	Correct	L1
25-02 16:39	613395889446	NORMAL	1	0'27"	Correct	L1
25-02 16:46	+61 7 3257 1583	NORMAL	3	1'37"	Correct	L1
25-02 17:11	61 3 98287389	NORMAL	3	0'49"	Correct	L1
25-02 17:17	61 3 92198849	FINE	1	0'49"	Correct	L1
25-02 18:12	+61 7 3257 1583	NORMAL	3	1'44"	Correct	L1
25-02 18:46	055 267238	NORMAL	1	0'47"	Correct	L1
26-02 7:51	53281881	NORMAL	1	0'47"	Correct	L1
26-02 8:28	61 6 249 7829	NORMAL	1	0'21"	Correct	L1
26-02 9:01	61 3 96885898	NORMAL	2	0'48"	Correct	L1
26-02 10:21	61 3 96328875	NORMAL	11	5'24"	Correct	L1
26-02 10:38	61 3 9432 4716	NORMAL	1	0'37"	Correct	L1
26-02 10:48	61 3 96328875	NORMAL	12	5'41"	Correct	L1
26-02 10:53	055 267238	NORMAL	1	0'42"	Correct	L1
26-02 11:08	61 3 96328875	NORMAL	3	1'12"	Correct	L1
26-02 12:01		FINE	1	0'39"	Correct	L1
26-02 13:35	055 267238	NORMAL	1	0'41"	Correct	L1
26-02 14:12	+6132652556	NORMAL	3	0'54"	Correct	L1

CIATC

COT



Holmes, Jim

From: Pinal, Don  
To: Harbison, Dennis V  
Cc: Holmes, Jim; Campbell, Ian  
Subject: Tariff filing  
Date: Monday, 20 December, 1993 1:02PM

A00354

Dennis,

I understand there is a new tariff filing to be lodged today with new performance parameters one of which commits to 95% call completion at the individual customer level.

Given my experience with customer disputes and the recent BCI study, this is cause for concern. We will not meet this figure in many exchanges around Australia particularly in country areas.

I assume that it is too late to stop the filing (and we may not want to even if there is a downside) but this has the potential to cause us major pain in the CoT area.

Don



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 Roy Selt

18 January 1994

Our Ref: GLH

Matter No:

Your Ref:

BY FAX: 287 7001

Mr Graham Schorer  
PO Box 318  
North Melbourne VIC 3051

Dear Sir

## "COT CASES"

I confirm I have been appointed by the Telecommunications Industry Ombudsman (TIO) as assessor under the terms of the agreement entitled "Fast Track Settlement Proposal".

I will be assisted by a project team under the direction of John Rundell of Ferrer Hodgson. The project team will include Mr Jan Blaha of DMR Group Australia Pty Ltd.

I am aware the parties are anxious for early resolution. My first priority will be to establish the process and procedure for conducting the assessment. In this regard I note paragraph 2(e) of the "Fast Track Settlement Proposal" provides that:

"The review will be primarily based on documents and written submissions. Each party will have access to the other party's submissions and have the opportunity to respond.

The assessor may, however, call for oral presentations by either party. Such presentations will not include cross-examination, and would not be open to the public or third parties. Representations of the parties will be at the assessor's discretion."

I have been provided by the TIO with a document entitled "Telstra Corporation Limited - 'Fast Track' Proposed Rules of Arbitration". I have not yet formed a view as to the suitability of this proposal. I would be happy to receive an alternative submission on behalf of the COT Cases but it might be more practical to await my comments on the Telecom proposal. Naturally I am anxious to establish a procedure which is acceptable to all parties.

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11183278\_GLH/RS

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3A



When I have formulated my views as to the appropriate procedure for conducting the assessment, I intend to meet formally with a representative of Telecom and a single representative of the four nominated COT Cases in order to finalise arrangements.

In the meantime I shall meet as soon as possible with Mr Rundell and Mr Blaha to discuss the roles of their respective organisations.

I consider it to be inappropriate for me to discuss the merits of the four actions with any involved party except in accordance with the agreed assessment procedure. I nevertheless wish to remain as accessible to the parties as possible. It may be necessary for a party to contact me personally from time to time for reasons unconnected with the merits of the actions. In such circumstances, I nevertheless reserve the right to provide any other party with a memorandum regarding the contact and the issues discussed.

At this stage I have no information at all regarding any of the claims. While the assessment procedure will of course provide for the formal presentation of material, it may be useful if the parties could informally provide me with any material which they jointly agree might be of assistance to me and the project team by way of background.

Yours sincerely



GORDON HUGHES

CC. S Black  
J Rundell  
J Blaha  
W Smith  
P Bartlett



  
**Hunt & Hunt**  
LAWYERS

3 February 1994

Our Ref: GLH

Matter No:

Your Ref:

BY COURIER

Mr Graeme Schorer  
C/- Golden Messenger  
493 Queensberry Road  
North Melbourne Vic 3000



Dear Mr Schorer

**COT MATTERS**

I am enclosing my proposal as to the "fast-track" arbitration procedure.

This procedure has been devised in consultation with Messrs Minter Ellison Morris Fletcher, solicitors for the Telecommunications Industry Ombudsman. The proposed procedure is acceptable to the Ombudsman and members of the Resource Unit.

I would be grateful if you would let me have your comments on the proposal as soon as possible. I am prepared to discuss the proposal individually with either of the parties. I am also prepared to convene a meeting involving both parties at short notice, if requested, in order to resolve any outstanding issues regarding the proposed procedure.

Yours sincerely

  
**GORDON HUGHES**

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**3B**



Telecommunications  
Industry  
Ombudsman

John Finn  
Ombudsman

24 October 1997

Ms Pauline Moore  
Secretary  
Senate Environment, Recreation, Communications  
and the Arts Legislation Committee  
Parliament House  
CANBERRA 2600

CONFIDENTIAL

Dear Ms Moore

**'Questions on Notice' by Senator Rowell**

I refer to previous correspondence and discussions with the Committee's Research Officer, Ms Decker, concerning a series of questions put on notice by Senator Rowell and arising out of the Committee's proceedings of 26 September 1997.

I understand that the questions are treated as tabular questions and hence questions of the Committee.

The GOT Arbitration Procedures contain provisions relating to the confidentiality of the proceedings, which bind the parties. Those provisions also bind the Arbitrator, the Resource Unit, the Special Counsel and the TIO in my role as Administrator.

I have also advised the Committee on a previous occasion that one of the GOT claimants, Mrs Gervis, has notified me in writing that she intends to join me as a party to Appeal proceedings she has commenced concerning the Arbitrator's Award.

Accordingly, I ask that the answers given below to the questions on notice be treated as confidential by the Committee and not be published.

- In November 1995 I received correspondence from a GOT member expressing concern about the Technical Resource Unit. The GOT member:
  - expressed concern that the purchase by Pacific Star of Law Telecommunications compromised the independence of the Technical Resource Unit;
  - stated that there were inaccuracies and biases evident in the Law Telecommunications/DAR Technical Evaluation Report;
  - requested the Telecommunications Industry Ombudsman to dissolve the Resource Unit;
  - providing independent, first hand, specific evidence of complaints.

CONFIDENTIAL

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