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TIO Correspondence 5 June-28 July

IMPORTANT NOTES- In ph discussions with the TIO it was made clear I had to provide evidence for any matters raised, not having proof meant most of my complaints could not be included!

Amongst correspondence you will find my modified Telstra Release and Indemnity, I made some very large concessions by omitting the company's illegal and immoral acts as it became apparent the company had the resources including the support of Government and TIO, which aligned with John Howards publically stated call for a truce, complete peace and cooperation between Government and Telstra for the sake of a smooth sale!
Despite countless concessions there was no possibility of a fair or legal and just outcome!

My sent correspondence is Black, **TIO returns are in blue**. Each single letter ends with color change.

Att-Debra-06/005234-1-Fink(my-letter+mod4066_001)

Monday, 5 June, 2006 10:53 AM

From: "Gary Looney" <g_looney2000@yahoo.com.au>

To: tio@tio.com.au

To The TIO (Jason Fink) and (Debra)

Below is a letter I sent to Mary Berejiklian after she sent me the original "Release and Indemnity Agreement", it included there "Release and Indemnity" modified by me to be accurate and correct in facts.
The previously mentioned $214.53 included reimbursement of Phone calls I made with my mother's phone when my service was out for 14 days.
This money also included an offer of compensation for the 14 days.
I refused this offer stating it was inadequate; this money was credited to my account before agreement or resolution.
I had asked for compensation based on the Customer Service Guarantee, that I believed was fair due to the fact that no date was given for repair after I reported the fault and after 14 days I actually pulled a Telstra service man over in the street to come and fix it.
CSG= (5Days x $12) + (9Days x $40) = $420-00.

At no time was I offered to be released from my service and compensated for the computer at the same time, I have the documentation to prove this.
The statement you/Telstra make is incorrect as to what I have or have not been offered.
This can only be based on correspondence received by me from Telstra employees of which some are also contradictory.
Further to this both Release and Indemnity's were inaccuracy in many facts and had sign Greg Looney in the area of signing, you will note my version sent before Telstra's 2nd copy is correct.

I was offered a satellite connection with "BorderNet" which was at a cheaper rate than Telstra and also was free of installation charges due to HiBIS but could not change providers without first

resolving the above mentioned complaints and related financial problems. Did you know of HiBIS and other assistance packages available?

The drop of my ISDN to 64KB was happening with unanswered incoming calls to my dedicated ISDN computer number and also with unanswered calls to my dedicated phone number. This has now been resolved so why does Telstra have to come up with their crap answer and insult my intelligence? This was fixed with changes at Telstra's end and in my settings but was a problem for some time.

I repeat that no acknowledgement of my complaint was made by Telstra until I got really pissed with it all and sent letters to over 100 Telstra employees including Soloman and all Australian politicians (plus more) pointing out what their company was doing or not as the case is.

Please carefully read the letter bellow and the original Release and Indemnity of which you would have a copy or email me and I will send you one.
Than just do what you I mean Telstra tells you to do. Good O.

Dear Mary Berejiklian

I have enclosed a Release and Indemnity Agreement that I would be prepared to sign in full and final resolution of the concerns I raised with Telstra.

I feel that this agreement is fair for complete finalization of all matters raised.

When asking for legal advice in relation to the Release and Indemnity it was pointed out that free legal advice services could be at risk of funding cuts and in further discussion have various reasons not to be in a position to look over Telstra’s paper, to give advice of its legality or any consequences in relation to the printing errors.

In light of the difficulty in obtaining legal assistance in the short term basic Chamber Magistrate and Law Access advice that I have received and will follow is-

1/ I should request an offer of resolution I think is fair.
2/ I should send this request by registered mail and keep a copy.
3/ I should explain that if legal advice is required it will take some time to organise and request an extension on the dead line given in your letter.

I will send you a letter via registered mail that will including a hard copy of this information when next in Broken Hill with access to facilities.

Sincerely

Gary Looney
Box 191. Lot 44, Wentworth rd
Menindee. NSW. 2879.
Ph 08 80914

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IMPORTANT NOTICE

This is an important legally *binding* document.
Read it carefully.
Before you sign it, you may want to obtain independent legal *advice*.

RELEASE AND INDEMNITY

IN FAVOUR OF TELSTRA CORPORATION LIMITED ABN 33051 775556 and its officers, employees and agents ("Telstra")

BY Mr Gary Looney
DP754390 Lot 44 Wentworth Road MENINDEE NSW 2879

1. I claim that:
(a) Due to inaccurate advice provided to me by Telstra's 'Front-of-House' staff I was disadvantaged and unnecessarily purchased a Laptop Computer to the value of $700.00; and

(b) Telstra staff provided recommendation of varying Internet products for me to connect, one of which was Broadband Wireless. I was later informed that this service is not available at my local exchange and I had ISDN installed as an alternate Internet product.
However I have found ISDN is not suitable for video conferencing as was described by Telstra's 'Front-of-House' staff and I believe that a Satellite service would have been a preferable option. I was offered free installation of a Satellite service with standard rates on the basis that I trial the satellite service. I have since decided not to pursue this aspect of the claim; and

(c) I have a computer connection that does not fully meet my needs and I would be at a financial disadvantage if I disconnected my ISDN or ISDN and phone services with Telstra due to early termination and disconnection fees. Telstra in a gesture of good customer relations has decided to not charge any early termination or disconnection fees if I wish to terminate my ISDN or ISDN and Phone service.

(d) I am entitled to a further reimbursement for the 14 day period without a working phone after having my ISDN service installed on 22 December 2005 and for call charges incurred that I had mistakenly believed to be free under the 50 free local phone calls offer whilst contacting Telstra regarding the above matters. As my service was installed as an ISDN service, this is not an eligible product for assessing a Customer Service Guarantee which I was therefore not entitled to. However, Telstra has since had $214.53 worth of charges credited to my Telstra account 1169556110; which includes call charges and a gesture of good customer relations and without admitting liability, in response to this claim.

2. Without admitting that it is liable to me in relation to the Events, Telstra is prepared to credit my Telstra account number 1169 556 110 with an additional eight hundred and ninety dollars ($890.00) inclusive of GST, if any, (the "Settlement Amount") in full and final settlement of my claim.

3. Because Telstra will pay the Settlement Amount to me:
3.1 I withdraw my claim against Telstra and will not make any other claim, now or in the future, against Telstra in relation to the events.

3.2 I will indemnify Telstra for any loss suffered by Telstra as a result of any other claim made by any person (including any claim made by a person claiming through me) in relation to the Events.

3.3 I will keep this agreement confidential except as may be necessary for obtaining confidential legal or accounting advice

4. confirm that I know of:

A. No other party who intends to make a claim against Telstra which relates to the Events; and

B. No other party who has a claimable interest in the Events

Signed as an agreement by Mr Gary Looney

in the presence of:
Signature of claimant
Signature of witness:
Full name (print):
Full name (print):
Address:
Address:
Date:
Date:

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att- Debra.06/005234

Wednesday, 21 June, 2006 7:24 PM

From: "Gary Looney" <g_looney2000@yahoo.com.au>

To: tio@tio.com.au

Dear Debra (Your personal response is required please)

Please note that I have read the TIO/Telstra BigPond response.
I find their response to be inaccurate & unreasonable/manipulative.
I did forward an accurate version of the Release & Indemnity to Telstra.
I think this should have been the end of it.

I would point out that a particular Telstra customer care note was taken down over the phone and when read back to me, my words had been changed, after 3 attempts to have the gentleman fix this it was still inaccurate.
You should find my official complaint about these customer care notes plus this complaints care notes.
This is just a fact along with the many others I have put forward and not meant as a complaint for your office, my aim now is to have the said money paid to me and that is all.

My version of Release and Indemnity is accurate, simple as that.
(In developed mistrust in Telstra I will not be signing anything).
Indeed should anybody be forced to sign such documents, my opinion is you should not be blackmailed into something for telling the truth.

As time is available I am preparing an official response with supporting documents, copy's will be sent to all involved.
Due to Telstra sending warning of service disconnection I have had to pay bill before complaint resolution. This is in spite of your requesting the bill be not sent by Telstra until complaint resolution.

Could you please send a short email just to acknowledge that you have personally received and read this email so our positions are officially known for future reference.

Sincerely

Gary Looney
Box 191, Wentworth rd
Menindee NSW. 2879

Your TIO Complaint 06/005234
Thursday, 20 July, 2006 2:36 PM
From: "Debra Lusty" <debra.lusty@tio.com.au>
To: g_looney2000@yahoo.com.au

Dear Mr Looney

Thank you again for your email of 21 June 2006, and please accept my apologies for the delay in examining your correspondence and replying. I regret any inconvenience this may have caused.

As you are aware, we have previously discussed your complaint and I have already examined your file. I have again read through the evidence and documentation that both you and Telstra have provided.
In your email your expression of dissatisfaction with the outcome of your complaint against Telstra highlights two main issues: 1. what you perceive to be inaccurate customer care notes, and; 2. your mistrust in Telstra to the degree that you do not wish to sign its release and indemnity forms.

While I can understand the frustration caused by an ongoing complaint and I acknowledge your views in relation to the above two points, at this stage I do not believe that the TIO is able to progress your complaint further or achieve the outcome that you are after.

In terms of your claim that the customer care notes presented by Telstra are inaccurate, there is simply no way of proving or disproving this. This is because said notes pertain to a conversation to which the TIO was not a party and the TIO cannot make a finding based on your claims alone. For this reason, while again acknowledging your point of view, the TIO cannot pursue this aspect of your complaint further.

I turn now to the issue of the release and indemnity forms. In a case where a company makes an offer of credit as a goodwill gesture, the TIO cannot dictate the terms under which such an offer is made. In this case while you have made a number of claims about the service you received, or did not receive, from Telstra and the costs you incurred, to date you have not provided what could reasonably be classed as solid evidence in support of your claims. Mr Fink has correctly advised that the receipt you provided for the computer in question does not show sufficient details relating to when you purchased the computer or who you purchased it from and because of this the TIO cannot independently verify that you purchased it out of necessity because of the problems you claim to have experienced with Telstra. Accordingly, the TIO must view Telstra's offer of credit as a goodwill gesture. For this reason Telstra is entitled to make the offer conditional upon you signing its release and indemnity forms in the format it requires.

On a general note, the TIO is a non adversarial alternative dispute resolution (ADR) forum which aims to assist disputing parties work together to resolve their complaint/s. This necessitates all parties acting in good faith and showing a willingness to compromise in an effort to resolve a dispute.
While I understand that you might disagree with such a process or procedure, the TIO's review of the evidence (not claims) before it, indicates that Telstra's offer of a credit has been made as a compromise and in an attempt to resolve this complaint.

In conclusion, while I regret that this is not the outcome you were hoping for, my reading of your file and most recent email indicates to me that (unless you are able to provide new and compelling evidence) the TIO is not in a position to pursue your complaint further. Nonetheless, I have left your complaint open for a further two weeks to allow you the opportunity to provide any additional evidence that you might possess. In the event that you cannot provide such evidence you have two choices: you can agree to accept Telstra's offer on the terms its proposes, or; you can request a review of your complaint by Senior Officer at the TIO. Another option which exists outside the TIO is for you to utilise a more formal legal system and take your case to the Small Claims Tribunal in your State.

Please contact me before 3 August 2006 to let me know what you would like to do.

Kind regards

Deb Lusty
Investigations Manager

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Re: Your TIO Complaint 06/005234
Friday, 21 July, 2006 1:19 AM
From: "Gary Looney" <g_looney2000@yahoo.com.au>
To: "Debra Lusty" <debra.lusty@tio.com.au>

Dear Debra

You talk of Telstra's compromise offer and I draw your attention again to the fact that Telstra has made no offer at all.
Over a period extending to 6 Months there has been 2 Release and Indemnity's sent with Sign Greg Looney on the Bottom.
It would not matter the form or sum it was not and never can be called an offer.

Regardless of if your mind is made up I will point out that Telstra (No name) states the figure of $1000 I raised with him being price of computer in their response.
$1000 was the figure I raised as an offer and was calculated by me in the presence of my mother a long time ago and was never stated as the cost of computer only-
It included computer cost, reimbursement for the use of my parents phone/fax, costs and compensation for failure in installing a Telstra service in reasonable time frame (refer faulty install of service).
I had stated to Telstra that I could not provide receipt's totaling $1000- as some of this sum was in services

Also I will have my say on another issue-
A Telstra manager asked for a receipt for the computer of which I did supply,
I have had a discussion with the seller of computer about Mary Berejiklian asking me for his personal details and we are of the same view in regards to the right of privacy.

In answering part of your letter today I repeat what I had previously said to Mr. Fink.
There is no point me supplying further supporting evidence to an organisation that-
(Calls a document written in a name other then the recipients an offer to them)

The company could of, indeed would of sent a revised copy with my name and an apology if they had any respect and intention of doing the right thing in regards to this error at which point regardless of the offer I could of respected some effort had been made.
Some people just cannot be wrong, cannot make a mistake and of course cannot say sorry.
So what do you think Debra, do you think Telstra could put my name on a respectable form and send it to me?
I am not asking you to tell them what to do as I understand you cannot, but I am asking what you think.

Gary Looney.

Your TIO Complaint 06/005234
Tuesday, 25 July, 2006 11:01 AM
From: "Debra Lusty" <debra.lusty@tio.com.au>
To: g_looney2000@yahoo.com.au

Dear Mr Looney

Thank you for your email of 21 July 2006.

In response to your question about the release and indemnity form, if you are willing to accept Telstra's offer provided the form is made out in your name correctly, please clearly confirm this and I will ensure that a new form is sent to you.

Kind regards

Deb Lusty
Investigations Manager

From: Gary Looney [mailto:g_looney2000@yahoo.com.au]
Sent: Tuesday, 25 July 2006 11:06 PM
To: Debra Lusty
Subject: Re: Your TIO Complaint 06/005234

Yes I wish to receive the form in my name.

Gary

RE: Your TIO Complaint 06/005234
Friday, 28 July, 2006 9:48 AM
From: "Debra Lusty" <debra.lusty@tio.com.au>
To: "Gary Looney" <g_looney2000@yahoo.com.au>

Good morning Mr Looney

Telstra has advised that it is in the process of sending you out the correct Release and Indemnity forms. Please note that if you accept Telstra's offer these need to be signed and returned without modification.

Kind regards

Deb Lusty
Investigations Manager

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-----Original Message-----
From: Gary Looney [mailto:g_looney2000@yahoo.com.au]
Sent: Friday, 28 July 2006 1:23 PM
To: Debra Lusty
Subject: RE: Your TIO Complaint 06/005234

Thank you, you would think modification would not be needed.
You make the point why.

Gary.

RE: Your TIO Complaint 06/005234
Friday, 28 July, 2006 1:25 PM
From: "Debra Lusty" <debra.lusty@tio.com.au>
To: "Gary Looney" <g_looney2000@yahoo.com.au>

Dear Mr Looney

Telstra has pointed out that you modified the wording of the last Release and Indemnity you sent back - I just wanted to make sure that you understand that it will not be accepted if it's modified.

Kind regards

Deb Lusty