

DECISION

Background

- 1 The complainant, Mr WG, first made a complaint to the Tolling Customer Ombudsman (TCO) on 13 November 2015, as follows:¹

“I am having difficulty with GOVIA over video matching charges I had koreported the issue of the tag not making a sound when passing through tolling points on numerous occasions. I have now been trying to correct the situation for quite some time with no success.

I have left the most recent communications with them attached to this for your reference.”

- 2 On 16 November 2015 the TCO acknowledged receipt of the complaint and referred same to Go Via for response.
- 3 On 17 November 2015 Go Via provided a report to the TCO as follows:

“We have been in discussions with [Mr WG] regarding the Video Matching charges on his account.

Here is an overview of the discussions for your reference:

- Email received 29 October 2015 regarding VMF charges on account [521***001]
- Responded to by Customer Service Officer on 31 October 2015 saying we have credited back \$50 worth of Video Matching charges for the last 3 months' worth of travel.
- Email received from customer on 2 November 2015 wanting all Video Matching Fees credited back to account.
- Responded to by Customer Service Officer on 2 November 2015 stating monthly statements were issued showing charges. Contact was only made on 27 October 2015 regarding these extra charges. Advised we were unable to provide a full refund.
- Email received from customer on 2 November 2015 advising we were aware of the tag issue on his account.

¹ All parties' submissions used in this Decision are quoted verbatim

- Our notations suggest no contact was received from the customer since 26 June 2015 to change a vehicle on the account. We had no mention of a tag issue.
- Email was escalated to a Team Leader and responded to on 10 November 2015 advising customers need to actively monitor their account and inform **go via** of any changes/updates and any issues they may be experiencing. As above, according to our notations this has not been the case. The Team Leader has advised the \$50 credit was the reasonable action to take.
- Email received from customer on 10 November 2015. Customer not happy with response that has been provided. This email was then forwarded to Customer Relations.
- Customer Relations reply on 12 November 2015.

Looking back at the history of the charges, it is showing that Video Matching Fees have been charged since 1 December 2014.

As above, according to our notations on the account we were not advised about the tag issue until 27 October 2015.

I believe the actions taken by **go via** are in accordance with our terms and conditions. These state a customer must advise us promptly when the tag is not beeping.”

- 4 This was forwarded to Mr WG for comment. On 25 November 2015. Mr WG responded to the TCO in the following terms:

“Firstly let me refute the comments that my first contact was 27 October this is in fact incorrect, it may well be the first time that they have bothered to log the issue, I have on one occasion not long after I received the new tag, and my wife contacted them on at least 1 other occasion on my behalf and we were both assured that the tag was in fact correctly billing my account. I set up my account with direct debits to my credit card so I did not have to monitor or worry about making the correct payments, Go Via monitor whether there is money available for the charges and debit the credit card when required but do not monitor their monitor their charging equipment.

This being said, their statement that they rely on me notifying them of any issue in regards their charges confuses me, so according to them it is perfectly acceptable to knowingly over charge for services until I notify them that I am now aware of their illegal behaviour. Yesterday I was overcharged at the local supermarket for an item and once I bought this to their attention they refunded me the entire price of the goods not just the overcharge, this I believe is the law.

Go Via have a highly complex computer billing system that would report to someone within their company that this tag was charging for both the trip and Video Matching charges for each and every transaction and it should therefore be notifying me that their equipment is faulty and them ensuring that the issue is corrected not me wasting my valuable time trying to resolve this issue. I am not sure if you have read all the information I supplied below but this company is in my opinion totally inept in there customer service.

I ask if you have had any dealing with this company from customer point of view. When you phone them and they are trying sell you a service they use a recorded message in clear and concise English language but when there is any difficulty that

requires any explanation you cannot get anyone on the phone who can understand the language, and then make untruthful statements that someone will phone you back which **never** happens

I now ask that as per the law in regards to overcharging that Go Via refund all charges that debited from my account not just the Video Matching charges but the tolling charges as well, this company has had ample opportunities to correct the situation before now and have refused to do so hence my request for all charges against this tag.”

5 The TCO sought further comment from Go Via to the issues raised by Mr WG. On 27 November 2015 Go Via responded directly to Mr WG:

“Thank you for your response forwarded to me by the Tolling Customer Ombudsman (TCO) on 26 November 2015.

I confirm calls have been made to our contact centre, the last call prior to 27 October 2015 was 26 June 2015 to update a vehicle registration. As advised, we have no notations suggesting the tag was faulty.

Having a **go via** account, the account holder must ensure they monitor their monthly statements to ensure they are being billed correctly.

If you notice a discrepancy, please contact us immediately for rectification, our customers must ensure their account is running effectively.

As also advised, statements have been issued on a monthly basis showing charges that have occurred.

The tag would not have been beeping, also alerting the customer that a problem is occurring.

Unfortunately, I am unable to honour your request for an additional refund.”

6 On 4 December 2015 Mr WG emailed the TCO as follows:

“I have received a response (see below) from customer service @ Go Via in response to this complaint, as can be seen from the trail of emails I have already had considerable correspondence from Go Via in this respect in which they refuse to sort out the situation. Please read all the correspondence below and you will see that I dispute much of what they have said.

I was of the belief that I was sending this to the Ombudsman for some consideration in this matter and not just asking you to give them further opportunity to comment, I already know what their opinion is.

I ask that you look at this with all the information below and make a determination regarding this matter, enough time and effort particularly on my part has been expending trying to correct this wrong.”

7 On 7 December 2015 the TCO replied:

“The TCO process allows for an exchange of information between a toll operator and a customer so that there had been clarification of the issues in dispute so that the TCO can make informed enquiries.

I note that you have stated that you have made a number of telephone calls to go via in relation to the issue of vehicle matching fees. It would be of assistance to me if you could check your telephone records and advise me of the dates of such calls.”

8 To which Mr WG responded that same day:

“My apologies for the last email sounding a bit short, I am in the process of moving and don't have access to my computer and only have my phone for correspondence. Unfortunately I do not have a log of calls to go via to prove my side of the story but believe me they were spoken to on at least two occasions in regards to the tag not working.

As already stated below dealing with Go Via is an absolute nightmare it is impossible to speak with anyone who can make a decision and if they can't do anything they pass it on to someone else by email and inform you that someone will call you back within 48 hours and that is the last you hear from them. I work in customer Service e and if I treated my customers like I have been treated I would have no customers but then again I suppose that is what you get when there is no competition.”

9 On 21 December 2015 the TCO advised Mr WG as follows:

“I have reviewed all the correspondence on file.

As it appears that this matter will not be resolved by conciliation, I will now proceed with making a written Decision.”

Decision

10 The objective of the TCO is to resolve complaints, which fall within its jurisdiction, between toll road operators, which fund the TCO, and their customers efficiently, fairly and without charge to the customer. In attaining this objective the focus is to look at the issues that are relevant to the resolution of the complaint between the toll road operator and its customer. The TCO decisions are binding on toll road operators but not on customers, who retain all their legal rights.

11 This is done in the context of the circumstances of the complaint, any terms of the use of toll roads and legal requirements. Relevant terms are contained in the Customer Service Agreement, on a toll road operator's website or in other material that is available to customers, whilst the applicable legislation can be accessed through Government websites.

- 12** The TCO is not a judicial body and does not have punitive powers. The TCO, when making a decision, does so on the basis of what it considers fair in the circumstances, taking into account the effect of a decision on each party and any public interest. The TCO only has jurisdiction over the conduct of toll road operators and cannot determine matters in relation to allegations against other outside bodies, such as Government agencies like SPER. Decisions are binding on toll operators but not customers, who retain all their legal rights.
- 13** I am satisfied that the parties have had the opportunity to resolve this matter and it would not benefit from further mediation.
- 14** This complaint relates to the operation of a tag. Mr WG asserts that the tag supplied by Go Via was faulty and as a consequence he was wrongly charged video matching fees for a considerable period of time.
- 15** Go Via investigated the complaint and found that Mr WG had been charged video matching fees since December 2014. Go Via says that its records show that Mr WG did not contact it about any problem with the tag or to complain about the video matching fees. Go Via says that its last recorded prior contact by Mr WG was in June 2014, when he updated details in respect of a vehicle. Mr WG contests this, but could not provide telephone records of his previous contacts with Go Via.
- 16** Go Via points out that it sent out monthly statements that included details of the video matching fees to Mr WG since they were first charged. It argues that under the contractual arrangements with its customers they were required to monitor their accounts and notify it promptly of any discrepancies.
- 17** Mr WG said that his account with Go Via was paid by direct debit from a credit card and that he believed he did not have to monitor his account. He further believed that it was up to Go Via to monitor its equipment.
- 18** Go Via, without admitting liability, credited Mr WG's account with \$50 for the previous three months' worth of video matching fees. Mr WG was not satisfied with this payment and has sought a full refund. He has complained about the problem he has had in dealing with Go Via and the complexity of its computer billing system.
- 19** I am satisfied that Go Via did not deliberately charge video matching fees in the knowledge that the tag was not working.
- 20** Firstly, the Go Via account was established, with Mr WG utilizing his credit card to enable the efficient payment and collection of tolls at the first instance for the benefit of both parties. There is no benefit to Go Via to involve itself in further administrative work, with the costs involved, of video matching to obtain payment.
- 21** Secondly, Go Via cannot be aware that the tag was not working efficiently unless it is notified by its customer as soon as possible.

- 22** Mr WG provided an example of obtaining a refund at the supermarket when he discovered an error, but in that instance he immediately drew the error to the attention of supermarket. Something he did not do in this matter, despite the fact that he had received a statement of monies charged to his account. The fact that Mr WG's account was being charged to a credit card by way of direct debit did not relieve him of his responsibility to monitor his statements.
- 23** Leaving that aside, it would appear that Mr WG may have incurred fees because the tag was not working properly. Balancing this possibility against the costs incurred by Go Via in the video matching, I find that it is fair that Go Via refund an additional \$50.

Determination

- 24** I determine Go Via pay \$50 to Mr WG.
- 25** Go Via has advised by email of 12 January 2016 that the sum of \$50 has been credited to Mr WG's account.

Michael Arnold
Tolling Customer Ombudsman

Dated: 14 January 2016