

## DECISION

### Background

- 1 The complainant, [Mr S], as Director of his company, first made a complaint to the Tolling Customer Ombudsman (TCO) on 21 November 2012, as follows:<sup>1</sup>

*“We are wishing to lodge a complaint regarding a handling matter with Eastlink/Breeze.  
We have lodged the matter with them however have been treated poorly.*

*The situation....*

- *In brief, I personally opened a company post-paid account thereabout mid. 2010.*
- *Previous to that we had a pre-paid account.*
- *For some bizarre reason although I, the director of our company who solely opened the post-paid account, Breeze was communicating with a contractor of our company not me.*
- *Thus a clear breach of the Privacy Act.*
- *Because bills were being sent to this contractors address they were left with little diligence, until without notice Breeze just closed our account without a single, call, email, letter or fax to me and our head office address.*
- *Our team members continued using the Tolled freeways assuming they were being paid for by our company, but because the account was abruptly closed with no notice to me they started receiving bills.*
- *Which obviously was not a pleasant experience for all.*
- *Upon this we swiftly made contact with Breeze who informed me that they had closed the account due to receiving no response from me, despite they acknowledged that a registered post letter was never received or signed for and furthermore was communicating to an unauthorised representative on our company account in which I did not give authority to.*
- *Despite all this Breeze has refused to re-instate our post-paid company account and negligently has allowed our dispute to roll on for some 6 months now to where constant costs have been accruing.*

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<sup>1</sup> All parties' submissions used in this Decision are quoted verbatim

- *These following numbers plates have been receiving invoices and infringement notices despite that I have asked numerous times for all bills to be issued to us without the obvious fees due to inefficiency of the dispute resolution division.*

*[\*\*180]*

*[\*\*\*680]*

*[\*\*\*554]*

*[\*\*\*589]*

*[\*\*\*201]*

*Desired result:*

- 1. To have our post-paid account reinstated with the correct details, and thus to NOT correspond with unauthorised individuals.*
- 2. To receive an account summary of what is owing to date minus invoice charges and fees, as these costs are due to Breeze, inappropriately and inefficiently handling our dispute.*

*I look forward to your prompt reply to finally get this matter resolve appropriately concluded.”*

- 2** On 22 November 2012 the complaint was acknowledged by the TCO and forwarded to EastLink for response. [Mr S] responded:

*“We have already had the matter address with them but without a synergistic result. So look forward to your hand in resolving this.”*

- 3** On 24 December 2012 EastLink responded to the TCO as follows:

*“Here is the full email chain correspondence in relation to this complaint by [Mr S].*

*The original complaint was lodged with our Customer Relations Department on the 16<sup>th</sup> April, 2012 and [Mr S] was provided with a response on the 24<sup>th</sup> April, 2012.*

*A further complaint was lodged on the 23<sup>rd</sup> July, 2012 and a further response was provided. It seems that [Mr S] will not accept our decision.*

*I have also had a look into this matter and advise our position stands.*

- 4** The email chain correspondence referred to in EastLink’s email above is quoted below.

Email from EastLink to [Mr S] dated 24 April 2012:

*"We acknowledge your desire to lodge a complaint regarding your circumstances, and confirm that your complaint has now been lodged with reference number: [CRT \*\*\*]. We have investigated your concerns, and wish to provide a resolution in the form of this correspondence.*

*We understand that the ground upon which you would like the complaint to be lodged are as follows (quoted from your email sent Friday, 30 March 2012, 14:28):*

**3) "All serious matters, alterations etc. on contracts are to be made by the signatory and thus a breach of the TPA & Privacy Act.**

**[Mr B] as you should have on file is just a 3<sup>rd</sup> party representative. I set-up the account and provisioned 3<sup>rd</sup> party access to [Mr B] only.**

**No emails, phones calls, faxes etc. were ever made to me at a all.**

**4) As per records show as [Mr B] has outlined below, that no correspondence was ever expressed that the account was to be closed.**

**It is also confirmed what ever letter that was sent was not received by our office and in fact sent back to you. Thus never received by our office.**

**You'll note our address is: [address], Melbourne."**

*You also raised the following point (quoted from your email sent Saturday, 14 April 2012, 18:39):*

**3) "Any reasonable individual would determine that by a staff member confirming at East that our account WOULD NOT BE CLOSED would agree with our argument."**

*We believe that this third point is in reference to the following point (quoted from an email sent Wednesday, 28 March 2012, 14:08 by [Mr B's company email address]):*

**"I last spoke with [J] on the 17<sup>th</sup> of Jan this year and she gave me a run down of what was owing. She said there was no threat of losing the account."**

*We will begin our response to your complaint by addressing these three points individually. We believe that other points raised in previous emails have already been addressed, and that reiterating previous answers would not be of benefit to you.*

1) At the time account [\*\*\*553] was open, all contact persons listed on the account had the ability to modify aspects of the account including vehicle and contact details. On 30/11/11 [Mr B] made contact with us and asked that the primary email address for the account be changed to [Mr B's company email address]. This change was made as requested, and it was to this email address that the majority of future written correspondence was sent.

2) Any letter issued by us was sent to the address provided for account [\*\*\*553]. Therefore if any letter was not received, this is not something for which we can be held accountable. It is your responsibility to ensure that all contact details are up to date. Our Customer Service Agreement clearly explains the reasons for which your account might be closed. We therefore deem you to have been fully notified of the possibility of your account being closed from the moment the Customer Service Agreement took effect.

3) After listening to a call recording of this conversation, I can confirm that [Mr B's] statement is incorrect. [J] made no comment regarding the potential closure of this account, and did not indicate in any way that there was no threat of losing the account. Additionally, listening to other recorded conversations has uncovered no evidence of any staff member confirming that the account would not be closed. Please let us know if there was some other occasion on which an EastLink staff member specifically advised that this account would not be closed.

The following table, which forms part of the account Customer Service Agreement, lists the grounds upon which we may suspend or close your account (each a trigger event).

Trigger Event	Notice period	Remedial Action
You don't pay an amount you owe us within 5 days of the date it was due	7 days	Pay the amount due
You don't comply with one or more of your other obligations under this agreement	5 days	Comply with the relevant obligations
We're required by law to suspend or close your account	5 days or less if required by law	Comply with requirements as notified to you, if any
We have reasonable concerns about your creditworthiness	Immediate for suspension; 5 days for closure	Comply with requirements as notified to you, if any in each case

Despite numerous opportunities, payment was not received for a number of monthly invoices within a reasonable timeframe. This has caused us to have what we believe are reasonable concerns about your creditworthiness. We have been more than generous in providing significantly more time to arrange payment than is required by this agreement. Account [\*\*\*553] was closed in accordance with the Customer Service Agreement of this account type.

*At this point we are willing to offer a pre-paid account to [Name of company]. However, we are not willing to offer a new post-paid account, or the reinstatement of the previous post-paid account. This is simply not an option at this point. If you would like a pre-paid EastLink account, please contact our business team immediately at [businessenquiry@breeze.com.au](mailto:businessenquiry@breeze.com.au)*

*As you are aware, vehicles that were registered to the account are no longer covered for travel by that account. If travel is made by a vehicle that is not covered for travel, Toll Invoices may be issued. If those Toll Invoices, or subsequent reminder notices remain unpaid, an Infringement may be issued for each day of travel. Any Toll Invoice received relating to a vehicle which was previously covered by an EastLink account should be immediately dealt with according to the instructions on the Toll Invoice.”*

Email from [Mr S] to EastLink dated 24 April 2012:

*“Please see my response below in red.*

*I await your reply.*

*...*

*“We acknowledge your desire to lodge a complaint regarding your circumstances, and confirm that your complaint has now been lodged with reference number: [CRT \*\*\*\*]. We have investigated your concerns, and wish to provide a resolution in the form of this correspondence.*

*We understand that the ground upon which you would like the complaint to be lodged are as follows (quoted from your email sent Friday, 30 March 2012, 14:28):*

- 1) “All serious matters, alterations etc. on contracts are to be made by the signatory and thus a breach of the TPA & Privacy Act.  
[Mr B] as you should have on file is just a 3<sup>rd</sup> party representative. I set-up the account and provisioned 3<sup>rd</sup> party access to [Mr B] only.  
No emails, phones calls, faxes etc. were ever made to me at a all.**
- 2) As per records show as [Mr B] has outlined below, that no correspondence was ever expressed that the account was to be closed.  
It is also confirmed what ever letter that was sent was not received by our office and in fact sent back to you. Thus never received by our office.  
You’ll note our address is: [address], Melbourne.”**

You also raised the following point (quoted from your email sent Saturday, 14 April 2012, 18:39):

**3) “Any reasonable individual would determine that by a staff member confirming at East that our account WOULD NOT BE CLOSED would agree with our argument.”**

We believe that this third point is in reference to the following point (quoted from an email sent Wednesday, 28 March 2012, 14:08 by [Mr B’s company email address]):

**“I last spoke with [J] on the 17<sup>th</sup> of Jan this year and she gave me a run down of what was owing. She said there was no threat of losing the account.”**

We will begin our response to your complaint by addressing these three points individually. We believe that other points raised in previous emails have already been addressed, and that reiterating previous answers would not be of benefit to you.

1) At the time account [\*\*\*553] was open, all contact persons listed on the account had the ability to modify aspects of the account including vehicle and contact details. On 30/11/11 [Mr B] made contact with us and asked that the primary email address for the account be changed to [Mr B’s company email address]. This change was made as requested, and it was to this email address that the majority of future written correspondence was sent.

This was not authorised by me the Director and primary signatory on the account. Therefore negligent to allow a change without my authority!!!!

[Mr B] is a contractor of a section of our company, and nothing more. ‘Not’ authorised to make changes, and Eastlink were beyond inappropriate and unlawful to allow this!!!!

2) Any letter issued by us was sent to the address provided for account [\*\*\*553]. Therefore if any letter was not received, this is not something for which we can be held accountable. It is your responsibility to ensure that all contact details are up to date. Our Customer Service Agreement clearly explains the reasons for which your account might be closed. We therefore deem you to have been fully notified of the possibility of your account being closed from the moment the Customer Service Agreement took effect.

We also cannot be accountable for a letter that we did not know existed. I mean really!!!!

The address is up to date, but sat in some depo. I discovered. Considering you issued a registered letter to ensure we would in turn receive this then this same attention to thoroughness should be fulfilled to the end. Not half way. We sent a registered letter but it was not received, but we can't be accountable. Of course you're accountable...The very nature of being accountable is to ensure responsibility of all matters are fulfilled to end. This obviously was not!!!!

You are implying I should be accountable of something I didn't existed? This is ridiculous [M]!

I reiterate no letter was received by our firm, and I therefore ask who it was addressed to?

3) *After listening to a call recording of this conversation, I can confirm that [Mr B's] statement is incorrect. [J] made no comment regarding the potential closure of this account, and did not indicate in any way that there was no threat of losing the account. Additionally, listening to other recorded conversations has uncovered no evidence of any staff member confirming that the account would not be closed. Please let us know if there was some other occasion on which an EastLink staff member specifically advised that this account would not be closed.*

[M] this is the response from [Mr B] to your point above...

As previously expressed, there was no threat of the account closing and again we didn't receive any letters, emails or phone calls saying that our account is closed or is about to be closed. The phone conversation I had with [J] was on the 17<sup>th</sup> of Jan 2012. She gave me a breakdown of what was owing for each month and to pay them off one by one was suggested. Again not expressions made of account closure whatsoever.

*The following table, which forms part of the account Customer Service Agreement, lists the grounds upon which we may suspend or close your account (each a trigger event).*

Trigger Event	Notice period	Remedial Action
You don't pay an amount you owe us within 5 days of the date it was due	7 days	Pay the amount due
You don't comply with one or more of your other obligations under this agreement	5 days	Comply with the relevant obligations
We're required by law to suspend or close your account	5 days or less if required by law	Comply with requirements as notified to you, if any
We have reasonable concerns about your creditworthiness	Immediate for suspension; 5 days for closure	Comply with requirements as notified to you, if any in each case

*Despite numerous opportunities, payment was not received for a number of monthly invoices within a reasonable timeframe. This has caused us to have what we believe are reasonable concerns about your creditworthiness. We have been more than generous in providing significantly more time to arrange payment than is required by this agreement. Account [\*\*\*553] was closed in accordance with the Customer Service Agreement of this account type.*

*At this point we are willing to offer a pre-paid account to [Name of company]. However, we are not willing to offer a new post-paid account, or the reinstatement of the previous post-paid account. This is simply not an option at this point. If you would like a pre-paid EastLink account, please contact our business team immediately at [businessenquiry@breeze.com.au](mailto:businessenquiry@breeze.com.au)*

*As you are aware, vehicles that were registered to the account are no longer covered for travel by that account. If travel is made by a vehicle that is not covered for travel, Toll Invoices may be issued. If those Toll Invoices, or subsequent reminder notices remain unpaid, an Infringement may be issued for each day of travel. Any Toll Invoice received relating to a vehicle which was previously covered by an EastLink account should be immediately dealt with according to the instructions on the Toll Invoice.”*

*So as expressed above [M] Eastlink did not act accordingly and appropriately to insure the account creator, company director, primary account holder and signatory ME!!!! was appropriately informed, thus negligent and thus I am to lodge this matter formally now as ignorantly you have failed to see that. As our vehicles are located by contractors and their premises we cannot monitor what invoices have been sent out.*

*An email has gone out to them to express to ignore the invoices until this dispute is resolved.*

*As it stands my position is I am more than happy to pay the owing now aware, once the account is reactivated as it should.*

*If you still [M] wish to refuse to acknowledge that Eastlink did not act appropriately in the closure of this account i.e. informing me the director, signatory, account creator, primary account representative then the offer made by [K] of Eastlink of having us on a pre-paid for 6 months and then placed back on an account at that time will be acceptable only if the process of billing is such that no paper bills are issued and an ETF process is in place. My company focuses on longevity of our environment through eco-friendly processes.”*

Email from EastLink to [Mr S] dated 1 May 2012:

*“Thank you for your email.*

*After considering the points that you have raised, we still feel that we have acted appropriately throughout the process of managing and ultimately closing your account.*

*You have stated in your email that as a post-paid account is currently not an option, you would like to open a pre-paid account, assuming a number of conditions are met. If this is still the case, please send a request to open a pre-paid account to [businessenquiry@breeze.com.au](mailto:businessenquiry@breeze.com.au)*

*Our business team will be able to explain the pre-paid options available for your business. They will also be able to discuss the options relating to automatic EFT payments and non-paper statements.”*

EastLink to [Mr S] dated 26 October 2012:

*“While we understand you are attempting to resolve the amounts outstanding with EastLink, we would like to confirm that all of the points you have raised in your response have been previously addressed. However, we have elected to give you more in depth information to assist with your understanding of our situation.*

*As advised in our previous response, “As we have responded several times regarding the same concerns and no additional concerns or evidence have been provided, we consider our position unchanged. We consider this our final response to your concerns and now consider your complaint closed.”*

Below is the response to each point raised in your previous email.

*The accountholder and signatory is [Mr S] not [Mr B]. This is where the breach lies. At no point was he given authorisation by [Mr S] to act on the account.*

*As per OAIC ACT this is a breach of the privacy act.*

On 11/09/08, you opened EastLink Pre-Paid Account [\*\*\*927] in your name. Then on 16/07/09, we have record of you calling to discuss outstanding invoice amounts and your Account. During this phone conversation you also registered [Mr B] as an authorised representative on this Account. When you contacted us again on 31/07/09 to advise that you would like to change your Account from a Pre-Paid arrangement to a Post-Paid one. This is when EastLink Account [\*\*\*553] was opened in the company name. All details which appeared on your Pre-Paid Account were transferred to this Account. As authorised, this included any Licence Plate Numbers which were registered as well as the representatives already authorised on the Account.

*It is not our responsibly to assume a letter was issued when we did no a letter was issued. We confirm no change to address was made so the address has always remained the same.*

*It was Eastlink that confirm that they sent a registered letter which was never received. Therefore this further corroborates our argument of never been notified accordingly.*

All preferred communication methods for EastLink Account [\*\*\*553] were set to email. This means that all Account Statements and Notifications were issued to the email address on the Account. As previously advised, on 30/11/11 the email address on the Account was changed from [accounts@[company name]] to [Mr B's company email address] as per [Mr B's] request and an authorised representative on the Account. In addition the all Account Notifications being emailed to [Mr B's company email address], they were also posted to the address on the Account. The address listed on the Account was [address], MELBOURNE, VIC, 3000, until [Mr B] contacted us again on 15/06/12 and changed it to [address], [suburb P], VIC, [postcode].

*Can you please send that recording to us for review. I have asked [Mr B] to provide a statement confirming his claim to be true and accurate as well.*

As EastLink's phone calls are recorded for quality and training purposes, it is not our policy to release any copies unless required to so by law. However, we have had both our Quality Team and the previous Customer Relations Officer handling your complaint review and assess the call and you have been advised the outcome multiple times.

*As expressed numerously we require the outstanding amounts owing itemised of the vehicles on the [company] account to be mailed to us for payment.*

*To date no invoices have been received, other than ones issued to our contractors, which needless to say have been left await resolve of this matter.*

*As previously advised,*

"We confirm the total amount that requires payment on EastLink Account [\*\*\*553] is \$576.43. This amount includes Tag Missing Fees for seven Tags which were listed on the account. Ordinarily if Tags on a closed Account are not returned within a six month period, these fees are not refundable. However, if you are able to return all seven Tags by 1/11/12, we are willing to waive these fees as a good will gesture. If we receive all seven Tags and waive the fees, the amount payable becomes \$296.46. If you are not able to return any of the Tags by this date, you will not be eligible to have the Tag Missing Fees waived in full. We have listed the Tag numbers you are required to return below.

[\*\*\*090]

[\*\*\*943]

[\*\*\*339]

[\*\*\*040]

[\*\*\*012]

[\*\*\*046]

[\*\*066]

We have also located a residual balance of \$52.65 which remains payable for Toll Invoices which were issued for travel made by Licence Plate Number [\*\*180]. Toll Invoices and Overdue Notices were issued to [Full name of Mr S] at the address [address] [suburb S] VIC [postcode], as provided by VicRoads. We have also extended the due date on this amount until 1/11/12. If this amount is not paid by the revised due date, further costs may be incurred.

To make payment for all outstanding amounts under your name please phone 13 LINK (13 54 65).

As the other vehicles listed on EastLink Account [\*\*553], are not registered in yours or the companies name, we are not authorised to discuss them with you. However, this does not mean they are debt free.”

*If you would like to receive copies of all Toll Invoices issued to your contractors, you will need to discuss this with each of the individuals or perhaps have them nominate your company.*

*I confirm we will be paying the total outstanding payments minus invoice charges with all previously registered vehicles on the [Name of company]. Invoice charges are a result of Eastlink sitting on this complaint for some time now whilst we awaited resolve. Delay on payment as no reflection of credit worthiness, but simply awaiting resolve from Eastlink whilst attending to this dispute.*

*As our position has remained unchanged since your complaint was first responded to on 24/04/12, the resolution offered has also remained the same. Although you attempted to dispute our decision further with similar arguments to your most recent response, we confirmed on 01/05/12 that we still felt that we have acted appropriately throughout the Account management process. As you chose not to not open a Pre-Paid EastLink Account in the interim, all Toll Invoices that have been issued by vehicles which have continued to travel, remain payable in full.*

*As it stands we are wishing to have our account reinstated as it was previously in an approach of mutual resolution, and therefore handled appropriately with me the account holder, otherwise we will need to raise this with OAIC as the concern now lies with individuals not authorised being able to actually call in to Eastlink and make serious changes to peoples accounts as expressed without proper authority.*

*Our system is unable to reopen or reinstate closed EastLink Accounts. As previously advised, we are also unable to open another Post-Paid Account for you at this time. If you are able to make payment for all outstanding amounts, you may request to open a Pre-Paid EastLink Account. Please send a request to open a pre-paid account to [businessenquiry@breeze.com.au](mailto:businessenquiry@breeze.com.au).*

*As we are unable to assist you any further than already advised above, once again, we consider your complaint closed and this our final response. We will not be responding to any further correspondence regarding previously addressed concerns that we have already addressed. To make the required payments, please phone 13 LINK (13 54 65) and provide closed EastLink Account number [\*\*\*553] and Licence Plate Number [\*\*180].”*

Email from EastLink to [Mr S] dated 13 November 2012:

*“As previously advised, if you would like to receive copies of all Toll Invoices issued to your contractors, you will need to discuss this with each of the individuals or perhaps have them nominate your company.*

*However, we have attached a copy of the Toll Invoices which were issued to you directly, for your records. As travel for this vehicle has been since referred to Civic Compliance Victoria (CCV) some time ago, we have highlighted the amounts the remain payable to EastLink.*

*In addition to the previously advised outcome to resolve your complaint, we have decided to waive the most recent Overdue Notice Fees (three). This means that the new total amount payable for Licence Plate Number [\*\*180] is now \$42.59. We have placed one final extension on this amount until 30/11/12. If you do not contact us as previously advised to make payment, this travel will be referred to CCV as well.*

*As stated in our previous response “If you are able to make payment for all outstanding amounts, you may request to open a Pre-Paid EastLink Account. Please send a request to open a pre-paid account to [businessenquiry@breeze.com.au](mailto:businessenquiry@breeze.com.au).” This means that payment for the debit amount on Eastlink Account [\*\*\*553] of \$576.43 is also required prior to another Account being opened with Eastlink. As a courtesy we have further extended the return date for your 7 tags until 30/11/12.*

*The conditions that surround the possibility of you opening another Post-Paid EastLink Business Account are at the discretion of the Business Team at the email address above.*

*We have also stated that “Once travel has been referred to an Enforcement Agency, the matter is out of our jurisdiction. To dispute infringement notices, you must submit a written application including the Obligation and Infringement Notice Numbers for internal review to:*

**Civic Compliance Victoria  
GPO Box 1916  
Melbourne Vic 3001**

*Should you require any further assistance with any Infringement Notices please contact Civic Compliance Victoria directly on 03 9200 8111.”*

*As we have attempted to resolve your complaint on numerous occasions and our position has remained the same since April, we advise you that your complaint with EastLink is closed. We believe that an acceptable explanation and level of information has been provided in every response we have issued to your concerns. As such, no further correspondence will be entered into.*

*Should you wish to refer your complaint the Tolling Customer Ombudsman, he will assess all of the information presented and make a recommendation.”*

**5** On 2 January 2013 the TCO’s office notified [Mr S] of the receipt of a response from EastLink (above) and that this matter will be reviewed by the TCO on his return from leave week commencing 14 January 2013.

**6** On 15 January 2013 the TCO emailed [Mr S]:

*“I refer to previous correspondence in this matter.*

*In view of the fact the complaint has not been resolved, I will now proceed with making a written Decision.”*

**7** On 16 January 2013 [Mr S] emailed the TCO as follows:

*“Thanks for your email.*

*As expressed Eastlink permitted an unauthorised individual to make changes to our postpaid account which adversely caused a chain reaction off issues and loss to our organisation.*

*This individual was NOT approved to make change by me.*

*We simply wish to have the following resolved...*

- 1. To have our postpaid account reinstated, and confirmation that only the primary accountholder, me can access and make changes.*
- 2. To send us an invoice of the outstanding amounts from the numbers plates submitted. Minus:  
Invoice and Vic Rods fees.*

*I don’t believe these are unreasonable considering we acted appropriately and lawfully.”*

**8** The TCO acknowledged receipt and confirmed that its contents will be taken into account in his Decision. A copy was provided to EastLink.

## Decision

- 9 The objective of the TCO is to resolve complaints, which fall within its jurisdiction, between toll road operators 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.
- 10 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.
- 11 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. I only have jurisdiction over the conduct of toll road operators and cannot determine matters in relation to allegations against Civic Compliance Victoria or other outside bodies.
- 12 EastLink has provided comprehensive responses to the issues raised by [Mr S] based on information recorded of conversations with [Mr B] and [Mr S].
- 13 [Mr S] has sought, in his submissions to EastLink, to make it responsible for any outstanding toll fees and other charges on the basis that any correspondence sent to [Mr B] was not as an authorised representative or in accordance with law. He submits that EastLink notices were otherwise not received at his company's address.
- 14 I do not find [Mr S's] submission to be correct.
- 15 I am satisfied from the information provided that [Mr S] opened an EastLink Pre-Paid account on 11 September 2008. He then contacted EastLink on 16 July 2009 and registered [Mr B] as an authorised representative on this account. [Mr S] has stated that [Mr B] was a contractor of his company but was not authorised to make changes to the account. There is no evidence that this limitation was conveyed to EastLink.
- 16 I am further satisfied that [Mr S] contacted EastLink on 31 July 2009 and advised that he wanted to change the account from a Pre-Paid one to a Post-Paid one. This is when the account was opened in [Mr S's] company name. All details which appeared on the Pre-Paid account were transferred to this account. This included any Licence Plate Numbers which were registered, as well as the representatives already authorised on the account. There is no evidence to indicate that [Mr S] indicated that he did not want [Mr B] as an authorised representative on this account.

- 17 It would appear from the evidence that the email address of the account was [accounts@[company name] and the postal address was [address], Melbourne Vic 3000.
- 18 I find that [Mr S], by nominating [Mr B] as an authorised representative on the EastLink account, as Director of his company, took responsibility for [Mr B's] conduct and was bound by same in connection with his dealings with EastLink.
- 19 I am further satisfied that the account email address was subsequently changed at the request of [Mr B] from [accounts@company name] to [Mr B@company name] and that emails were then posted to that email address. I also accept that the postal address was altered at the request of [Mr B] on 15 June 2012 to [address], [suburb P] Vic [postcode].
- 20 There is no evidence before me from which I can be satisfied that the emails were not sent to the nominated email and postal addresses.
- 21 I am satisfied that EastLink has acted in accordance with the terms and conditions governing its relationship with [Mr S], as the Director of his company. There was no breach of the privacy legislation.
- 22 I find that EastLink has made concessions to [Mr S] by offering to waive certain fees, which I consider fair and reasonable in the circumstances.
- 23 I recommend that [Mr S] accepts the offer made by EastLink on the basis that he be the only accountholder to avoid future problems, which I again consider to be fair and reasonable.

**Michael Arnold**  
**Tolling Customer Ombudsman**

**Dated: 8 February 2013**