

DECISION

Background

- 1 The complainant, Mr K, first made a complaint to the Tolling Customer Ombudsman (TCO) on 15 April 2013, as follows:¹

“At the end of last year my vehicle died and was unfixable, due to this my father lent me his car (registration number above), it had a Tag in it at that point. My Father then gave me the car, and cancelled the GoVia account.

After giving me possession of the vehicle, I logged onto my partners GoVia account ([BK]) and added the car to her account online. A few weeks later my father rang and said he was receiving letters from GoVia (as the car is still registered in his name), stating he owes tolls.

I again logged into my partners online GoVia account and changed the debit card details and noticed the car mentioned above was not listed. I once again added the Ford Ute. This was done on the 5/12/12 as this is the date that shows up on my debit card statement.

My partner and I purchased a new car last week (Honda CRV), and in attempting to add this vehicle to the online account, I noticed that the Ford Ute was still not added? At this point finalized adding the Honda and made note to myself to call GoVia regarding the Ford Ute.

On the weekend I again logged onto the account to check all was as it should be – and neither the Ford Ute nor the Honda CRV are showing? We contacted GoVia today to explain the situation, they were able to sort out the new car (Honda) but said the best they can do for the Ford Ute, is waive two of the 20+ \$25 fees they apply each time I travelled through a toll point.

Between working full time, renovating house and having our first child born recently, sorting out what should be a \$100 toll account is the last thing on my mind, particularly when I have already added the details twice online, and I’m being penalised for GoVia’s flawed online system.

Because of all this the account is over \$600 with GoVia collection fees. If the Ute had been successfully loaded the first time and not removed by some fault with GoVia’s online system, none of these charges would have been applied to the account to start with.

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

Unfortunately there is only one toll provider, unlike an electricity company or hardware etc. where I can go elsewhere if I am unhappy with their service. It is not fair GoVia can just push their wait around until hard working Australians just fold to their bullying and unreasonable demands.”

- 2 The TCO acknowledged receipt on 17 April 2013 and forwarded same to Queensland Motorways Limited (QML) for response.
- 3 QML responded directly to Mr K that same day, copied to the TCO, as follows:

“Thank you for your letter, forwarded to Queensland Motorways from the Tolling Customer Ombudsman (TCO).

*I have completed my preliminary investigations on the enquiry; however as a large part of the enquiry relates to an account that I do not have liberty to discuss unless the account holder provides complete permission or adds you as an authorized representative, I am only able to include information presented for vehicle registration [4****V] whilst travelling without a valid account or tag.*

*You did not include specific dates of when the vehicle was provided to you, and according to our records we first began to detect the vehicle with registration [4****V] travelling without a valid account or tag from the 14th of September 2012 to as recent as the 16th of April 2013. All tolls are allocated to a No Arrangement Travel (**NAT**) account when there is no valid account/pass.*

*This vehicle registration is still not listed on any **go via** account at the time of my response.*

We sent unpaid toll notices to the registered owner dating back from the 18th of September 2012 and have received a number of payments in October 2012. There were no further payments until March 2013, although we had continued to issue toll notices and demand notices in the entire time under State legislation, due to the vehicle continuing to travel without a valid account or tag.

*There are no records of contact to Queensland Motorways pertaining to either the difficulties experienced in attempting to add this vehicle [4****V] to any **go via** account, nor the multiple notices sent until the 15th of April 2013 where it was noted:*

Note

15.04.2013 16:25:42

Spoke with [Mr K]

*LPN – [4****V]*

I offered to waive 2 x fees of the 22 demand fees - Customer will dispute, Customer said he didn't follow up with us cause it should have been done online and because the car was in his dad's name, his father did advise of the letters he was getting regarding unpaid tolls but [Mr K] thinks we are at fault

*You recorded in your letter at least 2 occasions where it was alleged you attempted to add the vehicle to your partner's **go via** account, but not any time sought to seek assistance from Queensland Motorways over the course of months.*

*We have not been given the capacity to assist in the matter, and therefore could not take proactive action to assist you before the debt for [4****V] increased with the issue of demand notices for tolls that you have incurred but have not paid.*

*If you felt strongly that there had been some fault in the updates, the matter should have been raised months prior. I cannot support a statement that accuses our online system of faults when there have not been any other reported cases advising of the same from other **go via** customers, and was not reported by yourself or the account holder on two separate occasions.*

*I have also noted that you outlined in your letter that the registered owner of the vehicle advised you that he had received further notices, however you were certain that it had been already been added to your partner's **go via** account online. On checking that this was not the case, I also question why payment was then not made for your tolls knowing full well that the vehicle was definitely not listed on your partner's tolling account.*

Based on the above information, it is found that Queensland Motorways have rightfully issued toll notices, overdue toll notices, and later demand notices correctly and legitimately.

To clarify your statement regarding toll providers, you may be interested to note that you, as the consumer, have the capability to maintain a tolling account with any tolling account provider nationally. You are provided choice in the matter.

The Gateway and Logan Motorways are however operated by Queensland Motorways, and should you choose to travel via this route are subject to the terms and conditions of our roads. It is recommended that you either request for the account holder to contact us directly to update the account, or the driver is recommended to avoid the toll roads to prevent further notices.

*The outstanding balance for the NAT account (reference ***001) for vehicle registration [4****V] at the time of my response is **\$688.56**.*

It is recommended that payment be made immediately to clear the outstanding balance as further delay may result in further demand notices. My calculations indicate that a further \$712.80 in demand notices is pending issue if payment is not received.

Failure to make payment for the tolls and demand notices may escalate to Penalty Infringement Notices (PINs) from the Department of Transport and Main Roads (DTMR) issued to the registered owner for toll evasion offences. These notices attract a fee in excess of \$154 and the possible loss of licence if further referred to the State Penalties Enforcement Register (SPER) for enforcement.

Please make payment so we may avoid further fees and charges from being applied.

*To make payment of **\$688.56** you may choose from the following options;*

- credit card payment online at <http://www.govia.com.au> - to make payment please [click here](#) and use reference [***001] and registration plate number [4****V]*
- credit card payment over the phone with a **go via** representative on 13 33 31*

- by Cheque sent to Queensland Motorways PO Box 2125 Mansfield Queensland 4122 with the detached portion from the notice
- BPay using biller code 10306 and reference [***]"

4 On 19 April 2013 Mr K emailed the TCO:

"Thank you for your response.

I have received a reply from [Name], which I can see he has Cc'd onto you. I am unstratified with the response, it is very corporate, selfish and more so un-Australian. His reply sounds more like a copy and paste from a general letter he sends out to scare and bully Hard working Australians into paying their unfair claims.

As stated in my first letter, the GoVia account letters go to my Father, hence the communication flaw between GoVia and myself (as I am the one using the tolls, my father feel he shouldn't pay them, which is only fair). As stated in [Name's] email he can only talk to account holder and not myself. I have tried to add the car onto my partners GoVia account twice on the Internet and once on the phone on Monday just gone, I need to use Tolls the get around for work, and without GoVia willing to send me an in car tag until the account is settled, it will keep adding to the fees.

Yes the account could have been sorted out earlier with a phone call as GoVia online system did not work for me, but every time I was free the do something about it it was not during their office hours hence trying to fix the issue online. When I finally did talk to someone on Monday I requested a better offer than waiving 2 of the demand fees. Which I feel is only fare considering the circumstances and the issues I have had with the online system, and how hectic my life has been with the change of lifestyle being a first time parent. Quite convenient that the GoVia online system saves my credit card details but not the updated vehicle details.

It is very hard to try and negotiate a fare deal for both parties when they are the one holding all the cards. It is not like I can settle the account and then move on and find another tolling provider, GoVia have the Monopoly.

After [Name] has reviewed the account and my previous letter he has come back with no other offer, we just need need the account settled. I would be happy to pay for the tolls/services used and come to some sort of agreement in a lesser demand fee, but \$500 plus or minus in demand fees is unreasonable and also a lot of money to a single income house hold.

I would be more than happy to negotiate.

Any help you could give me in settling this account and get a tag back in my vehicle to stop anymore fees would be greatly appreciated."

5 The TCO emailed Mr K on 3 May 2013:

"I acknowledge receipt of your email below.

Before responding to your email, I recommend you immediately register your vehicle with Go Via."

6 On 18 June 2013 Mr K emailed the TCO as follows:

"It has been some time since your last reply. Have you had any reasonable response from GoVia."

7 On 20 June 2013 the TCO emailed Mr K:

"I acknowledge receipt of your email.

Go Via has provided a clear explanation as to the background of your complaint and your liability to them for the tolling charges in email dated 17 April 2013. Your response is sought to the issues raised.

Also, please confirm whether:

- 1. You have registered your vehicle with Go Via*
- 2. The accountholder has contacted Go Via to discuss the account."*

8 To which Mr K responded:

"I have tried to register the vehicle with GoVia to stop any extra charges, on the chances I am forced to use the Tolls. They will not issue a TAG until the account is settled.

There is no account, but the vehicle is registered under my Fathers name. Hence why they are chasing him. I am the one using the vehicle, hence why I am trying to settle the account. As stated in my initial email to them I tried to add the vehicle online and until recently was unaware it wasn't listed on my personal account with them. I explained the situation to GoVia, they were unwilling to waiver majority of the admin fees, which I believe is unreasonable, seeing how it was their online program that deleted the registration of the vehicle.

I give you my word that I added the vehicle several times and their online program deleted it. For their response to say that no one else has ever complained about having trouble with the program is hard to believe.

GoVia's continual harassment towards my Father is unacceptable. Their bullying tactics, to try and get us to pay an account were they are in the wrong is unacceptable.

I am avoiding the tolls the very best I can until this issue is resolved. The stress and frustration this situation is putting my health in a downward spiral. I sit in traffic daily. I am just short of seeking medical advise on how to deal with this. GoVia's lack of compassion towards a fellow Australian is emotionally disturbing.

I ask for your help resolving the issue. I think it is fair to pay for the tolls used and maybe 1-2 of the fees."

9 On 21 June 2013 the TCO emailed Mr K:

"I acknowledge receipt of your email below.

Go via has provided a full explanation of the circumstances of this matter and has outlined the opportunities you have had to pay tolls and fees. If you had taken this opportunity you would have avoided fees. I recommend that you pay the outstanding amount to avoid additional fees."

10 That same day Mr K responded:

"I send this email as a formal request you review all my correspondence. I am unhappy with your reply. I feel your decision is not correct."

11 On 24 June 2013 the TCO emailed Mr K and QML:

"I acknowledge receipt of your email of 21 June 2013.

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

Pending a TCO Decision it is recommended that you pay the outstanding monies to avoid any further fees. Any such payment made to regularise an account will be refunded in a TCO Decision favourable to the customer."

Decision

- 12 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.
- 13 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.
- 14 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.
- 15 This is a matter in which Mr K denies that he is liable to pay administration or collection fees in relation to Go Via tolls. He states that he added a vehicle registration 4****V, previously owned by his father, to his partner's Go Via account. He said that in fact he did it on a second occasion on 5 December 2012. He maintains that Go Via failed to add the vehicle to the account on two occasions.

- 16 Mr K made a complaint to the TCO on 15 April 2013, which was referred to QML. QML, in responding to the complaint on 17 April 2013 stated, amongst other things, that the vehicle registration 4****V was still not listed on any Go Via account at that date. Further, according to QML, there was no record of any contact with Go Via until 15 April 2013.
- 17 QML sent unpaid toll notices to Mr K's father, as the registered owner, until September 2012 and the tolls and fees were paid. Mr K had made no payments in respect of tolls between October 2012 and March 2013 although Go Via had issued toll notices and demand notices, which were still apparently going to his father. This was due to the vehicle continuing to travel without a valid account or tag and the vehicle being registered in the father's name.
- 18 Mr K should have been aware of this situation because of his contact with his father, and in continuing to use the road, he would understand that he had an obligation to pay tolls. It should have been apparent, both from his father's continued receipt of toll and demand notices and the statements in respect of his partner's account which would have showed no tolls, that vehicle 4****V was travelling on the toll road without a valid account.
- 19 Mr K has stated that between working full time, renovating a house and having his first child, the toll account was not forefront in his mind. I accept this to be the case but he should have taken time to look after his financial affairs and protect his own interests, particularly when he was on notice of the problem.
- 20 Mr K has criticised Go Via's online booking system as flawed because of the fact this vehicle and another vehicle failed to be registered after his attempts to do so. However, QML has stated:

*"If you felt strongly that there had been some fault in the updates, the matter should have been raised months prior. I cannot support a statement that accuses our online system of faults when there have not been any other reported cases advising of the same from other **go via** customers, and was not reported by yourself or the account holder on two separate occasions.*

*I have also noted that you outlined in your letter that the registered owner of the vehicle advised you that he had received further notices, however you were certain that it had been already been added to your partner's **go via** account online. On checking that this was not the case, I also question why payment was then not made for your tolls knowing full well that the vehicle was definitely not listed on your partner's tolling account."*

- 21 This is a unique complaint. QML has a considerable number of account holders, many of whom have registered online. It is one that could have been avoided if care had been taken to ensure that the vehicle 4****V had been registered to Mr K's partner's account. If he did not have the time available, there should have been an opportunity for his partner to do it for him, despite the fact that she was having a baby. It was, with all respect to her, not an onerous task and it was her account for which she was primarily responsible.

- 22** I understand that after Mr K contacted the TCO's office on 15 April 2013, the vehicle registration 4****V (QLD) continued to travel on the QML toll road network without a valid means to pay until 12 June 2013.
- 23** Since my intention to proceed with an official written Decision for Mr K's dispute on 24 June 2013, QML has issued a further \$617.40 in Demand Notices. As a result, the outstanding balance for vehicle 4****V (QLD) on the No Arrangement Travel account ***001 stands at \$2,556.13 as at 9 September 2013.
- 24** As a gesture of goodwill, QML has indicated it will not pursue the additional charges of \$617.40 on payment of \$1,938.73 that was outstanding as at 24 June 2013.
- 25** In these circumstances I am satisfied that Mr K is liable to pay Go Via's tolls and related administration and collection fees. I recommend that Mr K makes payment of \$1,938.73 to resolve the matter.

Michael Arnold
Tolling Customer Ombudsman

Dated: 1 October 2013