

DECISION

Background

- 1 The complainant, Mr WM, first attempted to lodge a complaint with the Tolling Customer Ombudsman (TCO) in July 2014. Due to limited access to the documentation, the complaint was re-lodged on 6 August 2014, as follows:¹

“My name is [Mr WM] and I want a dispute that I have with Go Via regarding payment of tolls reviewed by the Tolling Ombudsman.

BACKGROUND

I live on the Gold Coast but work near Brisbane Airport and have worked there for the past five years. As a result, I drive across the Storey Bridge at least twice a day most week days and sometimes more if required by work. Therefore I consider myself to be a frequent toll user. In 2009 I opened a Go Via account ('my account') and got an E-tag which I permanently attached to my car windscreen.

ISSUES

Ongoing issues related to the management and payment of my Go Via account:

Since opening the account, I have regularly topped up the balance to ensure that there were funds to cover the tolls.

Subsequent to the loss of my credit card approximately one year ago, I choose to manually top up my account online using BPay with a reference number. This arrangement worked for quite some time.

During 2013, I noticed that even though I travelled the same route regularly there were random occasions when I passed through a toll and did not hear the E-tag chime, as I expected it to. I contacted Go Via by phone and reported it and was advised that the matter was dealt with by a camera arrangement, this appeared to work until I later started to received extra charges. I called Go Via and asked about the extra charges I was incurring, they advised me these had been reversed.

Late 2013 I attempted to make a payment into my account and was not able to do so as the system had changed and the reference number I had been using was no longer being accepted through BPay. A subsequent payment I attempted to make through my online banking account also failed, through the same problem as the

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

auto payment. Reference details were removed from the bank account, which stated (unable to permanently set reference number as Go-via change their reference numbers). I am now of the understanding that without notice or warning Go Via change their Bpay reference number which has meant that my attempts to manually top up my Go Via account through Online banking have been thwarted as I did not have timely access to an updated reference number. This has meant that I have had to keep contacting Go Via trying to obtain an updated reference number.

I rang Go Via on several occasions, asking a new reference number so I could settle my account. The Go Via staff repeatedly appeared confused by my request which resulted in incorrect information being given to me. During one phone call to Go Via, instead of receiving a new reference number I was given a number which when I tried to make a payment through BPay turned out to be my account number so the payment failed.

Each time I called, Go Via staff asked me to provide my credit card details so that Go Via could directly debit my card but I explained this was not an option for me and wanted to pay manually through BPay.

On one occasion when I rang Go Via and again explained my situation that I wanted to top up my account but could not without an active reference number I was told in a rude and unprofessional manner by the staff member that my account had been suspended. I stated that I could accept this however I still wanted to pay my outstanding account and needed a reference number.

This was highly frustrating for me having to call Go Via and wait, uncertain as to whether the information would be correct or not so. There were rare occasions that I was given a successful reference number which did then not work the next time I tried to use it. My experience was that most staff did not know how to help. This meant that I was unable to top up my account.

During this time knowing that the responses I was receiving from my calls to Go Via did not resolve my payment issues, I tried dealing with Go-via by email without success. (See attached Emails).

I also found that although I had funds in my account to cover the tolls the e-tag, although permanently attached to the car windscreen appeared to fail and not register the tolls. I did not realise this was the case until I started to receive statements requesting payments and associated administration fees for non-payment.

DEMAND OF NON-PAYMENT NOTICES

In early 2014 I received a Demand of Non-Payment notice dated for a toll from 2012 stating that I had not paid this toll and that I was required to pay the toll fee plus \$22 admin fee. I contacted Go Via to discuss the incident. I paid \$100 using the BPay details on the demand notice, believing that amount would be credited into my account and cover both the outstanding fee and other future tolls at that point. The \$100 was debited from my bank account.

Subsequently I noticed that my Go Via account had not been credited the difference of the \$100. I called Go Via and was told by staff that apparently this money had gone into a separate account and that Go Via had no record of my money; this was

another company and had nothing to do with Go-via. I found this information quite confusing and distressing. There was no assistance offered from the Go Via staff to resolve the situation. The balance of the \$100 dollars had just gone and as far as they were concerned the problem was not there's and that was that.

I continue to receive Demand Notices and Final Demand Notice which I have received in spite of having funds in my account. I am also continually charged administration fees in spite of there being funds in my account.

I have now received an email from a debt collection agency and letters from a solicitor regarding debt collection to which I responded the matter is now in dispute.

My frustration has increased as I have continued to contact Go Via and received no acknowledgement regarding demand notices for non-payment of tolls. I am now seeking alternative methods to resolve this matter as there appears to be little chance of reconciling the matter with Go-via directly; they have a policy I find difficulty in to dealing with.

OUTCOME SOUGHT

This is an ongoing matter which I want resolved once and for all. After repeatedly having no success resolving the matter with Go Via I have escalated the matter to the Ombudsman.

To resolve this matter, I wish to pay the outstanding tolls if I am given the correct payment details but I seek that the administration fees be waived and debt collection be dropped.

As the E-tag appears to be intermittently faulty, I ask to be supplied with a fully functioning E-tag.

I would like to know where the balance of the \$100 dollars went.

I require a payment process whereby there is no confusion and I'm able to make payment as I have done over the past several years and prior to this matter evolving in late 2013.

Should the debt collection agency named, have taken any action against my credit rating I wish to have this reversed.

I also request that Go Via refrain from providing my personal information such as my email address to third parties without my consent. I have provided my personal information to Go Via in good faith and did not give permission for Go Via to forward this information on to any other external party without my consent.

IN SUMMARY:

To resolve this matter I seek the following;

1. That Go Via recognise the \$100 payment I made as per the bank statement and the amount is used towards outstanding payments as originally intended;
2. I am happy to pay the outstanding tolls if I am given the correct payment details;
3. I seek that the administration fees be waived and debt collection be dropped
4. As the E-tag appears to be intermittently faulty, I ask to be supplied with a fully

functioning E-tag; and

5. I also request that Go Via refrain from providing my personal information such as my email address to third parties without my knowledge or consent. I have provided my personal information to Go Via in good faith and do not give permission to Go Via giving my information out to any other external party without my express knowledge or consent.”

2 The TCO acknowledged receipt of the complaint and forwarded same to go via for response.

3 Go via responded that day in the following terms:

“Thank you for your email with attachments, forwarded to **go via** from the office of the Tolling Customer Ombudsman (TCO).

As you have not exhausted the internal resolutions process with **go via**, it has been referred back to our office for a response.

I acknowledge your specific requests that you consider will resolve the matter.

I wish to now address each one:

1. That Go Via recognise the \$100 payment I made as per the bank statement and the amount is used towards outstanding payments as originally intended

There was no bank statement included in your attachments; therefore I do not know what payment you refer to.

Please supply this so that I can check our records.

We received a \$100.00 top up towards your **go via** account on the 4th of April 2014. The credit has since been used and the account is suspended as no other top up was received. Despite asking for a resolution for this debt, it continues to grow as [8****E] (QLD) continues to travel on toll roads without a valid means to pay as recently as this morning.

Separately, we received \$100.00 on the 29th of April 2014 towards toll invoices we issued for [8****E] (QLD).

These invoices are issued from a default No Arrangement Travel account (NAT). Tolls are then billed to the registered owner when the vehicle does not have a valid account/pass.

The payment was made using its unique BPay reference however was insufficient to cover the accrued balance of \$218.97.

After that payment, it left a balance of \$118.97.

Together with continued travel during account suspension; non-payment caused the balance to escalate further.

2. I am happy to pay the outstanding tolls if I am given the correct payment details

The balance payable for toll invoices issued to [8****E] is **\$2475.84** correct at the time of this email.

Here are the payment details:

Billor Code 10306

CRN [25****10]

Your top up details for your **go via** account remains unchanged as we have advised on a number of occasions.

Here are the top up details:

Bill Code 10306
CRN [25***18]

3. I seek that the administration fees be waived and debt collection be dropped

There are no known issues with the BPay top up feature on your account or any other **go via** account, which is the basis of your complaint.

If there are issues with the BPay feature through your bank, please refer to the bank with the error messages you are receiving. I would be interested also to receive a screen shot so I understand what the issue is.

With no other reasons, and based on the facts that your **go via** account was not kept in credit to accept tolls for your vehicle, the toll notices are legitimately issued under stipulations of the **Transport Infrastructure Act 1994 Qld**.

The same legislation advises that a motorist that has been issued a toll notice is required to make payment for both the toll and the administration fee.

We are not obliged to waive any costs that we have incurred as a result of the non-payment of your tolls within the 3 day grace period.

We are happy to instruct that all debt collection is ceased upon full payment of all outstanding balances owed to **go via**.

4. As the E-tag appears to be intermittently faulty, I ask to be supplied with a fully functioning E-tag; and

I am happy to oblige a replacement tag, if you wish. This is certainly easily achieved.

I will point out though, that our gantries successfully communicated with your tag on each occasion, but could not apply it to your account due to the delinquent status.

Here are the most recent results from our toll points;

| Transaction ID | LPN | Plate Issuer | Date | Time | Tag ID | Tag Status |
|----------------|----------|--------------|------------|----------|---------|------------|
| [***52] | [8****E] | QLD | 17/07/2014 | 17:40:07 | [***46] | Delinquent |
| [***46] | [8****E] | QLD | 21/07/2014 | 08:46:52 | [***46] | Delinquent |
| [***66] | [8****E] | QLD | 21/07/2014 | 17:42:29 | [***46] | Delinquent |
| [***47] | [8****E] | QLD | 22/07/2014 | 08:41:11 | [***46] | Delinquent |
| [***66] | [8****E] | QLD | 22/07/2014 | 17:47:46 | [***46] | Delinquent |
| [***03] | [8****E] | QLD | 23/07/2014 | 08:45:21 | [***46] | Delinquent |
| [***12] | [8****E] | QLD | 23/07/2014 | 17:40:06 | [***46] | Delinquent |
| [***15] | [8****E] | QLD | 24/07/2014 | 16:01:32 | [***46] | Delinquent |
| [***31] | [8****E] | QLD | 25/07/2014 | 12:38:52 | [***46] | Delinquent |
| [***30] | [8****E] | QLD | 25/07/2014 | 17:13:33 | [***46] | Delinquent |
| [***45] | [8****E] | QLD | 28/07/2014 | 08:37:21 | [***46] | Delinquent |
| [***15] | [8****E] | QLD | 28/07/2014 | 16:23:06 | [***46] | Delinquent |
| [***97] | [8****E] | QLD | 31/07/2014 | 08:48:53 | [***46] | Delinquent |
| [***70] | [8****E] | QLD | 31/07/2014 | 17:58:25 | [***46] | Delinquent |
| [***59] | [8****E] | QLD | 01/08/2014 | 08:16:06 | [***46] | Delinquent |
| [***03] | [8****E] | QLD | 01/08/2014 | 16:37:30 | [***46] | Delinquent |
| [***12] | [8****E] | QLD | 04/08/2014 | 08:38:33 | [***46] | Delinquent |
| [***29] | [8****E] | QLD | 04/08/2014 | 16:35:46 | [***46] | Delinquent |

| | | | | | | |
|---------|----------|-----|------------|----------|---------|------------|
| [***27] | [8****E] | QLD | 05/08/2014 | 08:30:51 | [***46] | Delinquent |
| [***04] | [8****E] | QLD | 05/08/2014 | 16:44:43 | [***46] | Delinquent |
| [***73] | [8****E] | QLD | 06/08/2014 | 08:32:51 | [***46] | Delinquent |

If the tag was faulty, it would not register at all.

Nevertheless, I can arrange for a replacement tag at your request once you confirm the last point below.

5. I also request that Go Via refrain from providing my personal information such as my email address to third parties without my knowledge or consent. I have provided my personal information to Go Via in good faith and do not give permission to Go Via giving my information out to any other external party without my express knowledge or consent.

Our Privacy statement can be located on our website. Here is the link for your convenience: <https://www.govia.com.au/via/home/Customer+support/Privacy+Statement/> By using our products or services or providing personal information to us, you agree to the terms of this Policy.

To oblige your request, we cannot continue our **go via** terms of agreement with you and your account will need to be closed.

You will also need to cease utilising our services by not using our toll roads and seeking alternative toll free routes.

Resolving the debt in full and no longer travelling on our toll roads will ensure that we do not access your personal information or share it with any other party.

Please let me know if you no longer wish to agree to our privacy policy, as sending a replacement tag is dependent on this.

I look forward to your response.”

4 On 25 October 2014 Mr WM wrote to the TCO:

“I have neither heard back or received anything further to my application for a hearing of the matter with QLD Roads. I am now receiving notification from SPER and notification from a debt collection agency. Would you please let me know where this matter is at please. For four years payment with this government entity was fine however from resent miscommunication it has gone badly. I just want to finalise this matter and move on.

Should you not be able to deal with this matter could you please let me know so that I may take up alternative options.

Your assistance here would be appreciated.”

5 On 26 October 2014 the TCO responded:

“Your complaint has now advanced to SPER and I have limited ability to resolve a dispute at this stage as it has advanced beyond Go Via. It would be of assistance if you could set out your complaint further.”

6 Mr WM replied on 28 October 2014 as follows:

“I lodged all the material you have asked with the Ombudsman quite some time ago and subsequently received a reply from the QLD Tolling people which was uncompromising and to which I did not agree. From there I expected to hear from the ombudsman as they gave an undertaking they would follow up on this matter.

Should the Ombudsman not wish to follow up this matter would you please advise me accordingly as I need to move on with the several options presently available to me. Up to this point in time I have been following the standard protocols for this dispute with QLD Tolls, however it seems to have come to a halt, your assistance here would be helpful.

I would have thought that in the best interest of what is reasonable and just in the course of a registered dispute that litigation would be on hold until the initial proceedings were complete and a resolve reached any subsequent disagreement would then be handled by the courts.

I find it somewhat bewildering that because QLD Tolling could not supply a banking reference number this matter has escalated to this degree, requiring court cases and the tax payers money as well as mine to resolve the matter. With respect to SPER I will seek a legal/political council and advice.”

7 On 3 November 2014 the TCO wrote to Mr WM:

“I note that this matter was first sent to the TCO on 24 July 2014 but the TCO advised that the documents could not be accessed and a request was made that they be processed in another format.

The TCO acknowledged the documents and lodged your complaint with Queensland Motorways (QML) on 6 August 2014.

From the information on file, Go Via responded to your queries and submissions on 6 August 2014.

I note that this matter was again lodged with the TCO on 25 October 2014. I advised that the TCO had limited authority to deal with matters once they had been referred to SPER.

Please advise if any negotiations have taken place with SPER.”

8 On 5 November 2014 Mr WM responded:

“...please disregard any comments with regard to SPER. I'm requesting that the Ombudsman mediate this matter as soon as possible. I believe I have sent through all the documentation. The documentation was sent both by email and the postal system. Should you not wish to mediate this matter would you please advise me accordingly. I wish to resolve the matter as soon as possible. I think this matter has been dragged out to my disadvantage and is now at a critical stage that needs to be action urgently.”

9 On 15 November 2014 the TCO informed Mr WM as follows:

“I will seek to mediate this matter in the scope of my jurisdiction but you must be more specific with a proposal for the basis of the mediation.”

10 To which Mr WM responded on 25 November 2014:

“The scope of mediation is to:

1. have written advice from Queensland QLD Tolls that the currently accumulated fines and penalties will be waived;
2. an outstanding payment amount will be calculated and agreed to by both parties based on actual toll usage;
3. a mutually agreed time period within which I am to settle the outstanding tolls;
4. I want an assurance from Queensland QLD Tolls to agree that the money I pay into my account will go towards the tolls and not go to paying fines; and;
5. To be provided with a system whether it be to include a Bpay reference number where I can top up my account without providing Queensland QLD Tolls direct access to my credit card and;
6. in return I undertake to cooperate and act in good faith and to endeavour to resolve this matter as efficiently as possible.

Let it be known that I have never refused to pay the actual tolls incurred by my vehicle, in fact this unfortunate and frustrating situation arose due to my repeated and unsuccessful attempts at communication with Queensland QLD Tolls to obtain a valid reference number so that I could pay and top up my Go Via account.

As a daily user of the Gateway Bridge it is in my interests to have a valid Go Via account and for 4 years I had been making automated payments without issue. I did originally provide Queensland QLD Tolls permission to direct debit my credit card but then found unauthorised transactions on my credit card so stopped the authority, I did not receive a satisfactory explanation from Queensland QLD Tolls as to why these extra unauthorised transactions were made.

Then I attempted to make a payment by automation which worked for a while but then was rejected and was informed by my bank that the reference number was invalid. It was from that point that I started my contact attempts with Queensland QLD Tolls to obtain a reference number that would successfully allow me to pay my account.

I am committed to resolving this matter in a reasonable manner and with common sense.”

11 On 29 November 2014 the TCO sought comment from go via to which go via responded:

“Please find attached our response to [Mr WM] of 06/08/2014 for your records.

[Mr WM’s] pre-paid account remains suspended and [Mr WM] continues to travel, as recently as yesterday, 28/11/2014, without a valid payment arrangement.

His pre-paid account currently has a negative balance of \$21.68.

The outstanding balance for his vehicle is currently \$4,056.96.”

Go via’s letter to Mr WM of 6 August 2014 is quoted in paragraph 3 above.

12 The TCO forwarded this correspondence to Mr WM with the following request:

“Please advise if this is the position and how you propose to meet the proposals put by you to QML for repayment in good faith.”

13 On 30 November 2014 go via wrote to Mr WM, copied to the TCO, as follows:

“Further to my email to Mr Arnold, I can clarify that \$100.00 was paid to your go via account on 03/04/2014. Subsequent toll charges applied to your account have exhausted those funds.

A further \$100.00 payment was made towards the outstanding tolls on 29/04/2014. No further payments have been received.

Queensland Motorways has not changed its BPay reference number. Our biller code remains 10306. BPay details are provided on each of your Tax Invoice Statements, provided to you on a monthly basis. Further, BPay details are also provided on each of the invoices issued to you. I have attached your Tax Invoice Statement from January 2010 and your recent statement from November 2014. Both clearly show the Bpay details as follows:-

| | |
|-------------|-----------|
| Biller code | 10306 |
| Reference | [25***18] |

Your pre-paid account number is [5***1] and the first and last digit make up your reference number.

It is worth noting that the BPay facility is a Bill Payment facility and is not one of the options offered for topping up your pre-paid account, although we do provide Bpay details on your Tax Invoice Statement. You can top up your account manually online at www.govia.com.au at any time.

Whilst you continue to travel without a valid payment option you will continue to receive notices in respect of the unpaid tolls.”

14 On 15 December 2014 Mr WM emailed the TCO three times:

12:41 AM:

“...this matter and amount is in dispute and I have no intention of payment as with previous payment problems which I have explained. I'm at a loss as to why there is no consultation in this matter. There only appears to be a staunch position by Go Via. I do not believe I owe this amount it is in dispute. This all began because Go Via staff could not supply me with a banking reference number.”

1:02 AM:

“...I have read the email from [Ms J], Go Via have never ever sent me an invoice. This matter began because I was unable to pay when I never had access to a payment reference number and was unable to obtain one through Go Via staff. The

first staff member gave me my customer number as the reference number. The whole saga has evolved from this point in time. for four years I have had nil trouble in payment until late last year. With regard to the \$100 dollar amount this was used by Go Via to pay their penalty payments. The amounts tendered consist primarily of Go Via penalty payments. Like I said I will pay the tolls but not the penalty payments as its not my fault that I could not obtain a reference number from their staff and there has not been an invoice supplied.”

11:01 PM

“With respect to the disputed tolls as I said previously I don't dispute the amount of the tolls I do dispute the delay I had in being able to make payment which has bought this matter to the present situation.

Looking at [Ms J's] email the invoice of November 2014 I did receive. Should I have had invoices from earlier accounts this matter would not be where it is at the moment.

I would prefer if possible to attend a meeting to resolve this matter as I believe it has been running for far too long.

Should I start paying for what I am presently now accessing, the money paid would just get absorbed into the penalty payments accounts, this is what happened to the last \$100 amounts.

I believe a meeting would be of value to assist moving on from here.”

15 On 19 January 2015 the TCO notified Mr WM:

“I have reviewed your complaint and Go Via's response.

It is apparent from the negotiations that there is not going to be an outcome with which you will be satisfied. Accordingly, I will make a written Decision.”

16 Mr WM responded on 20 January 2015:

“...was there not an opportunity to be able to negotiate in an open forum face to face with legal representation, as I do not believe that all detail of the matter could be appropriately addressed and negotiated through emails alone.”

17 On 25 January 2015 the TCO wrote to Mr WM as follows:

“From the information provided there have been opportunities for a negotiated outcome.

decision I make is binding on the toll operator but is not binding on you. If you are dissatisfied with ant decision you make you are not prevented form initiating proceedings.”

Decision

- 18** 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.
- 19** 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.
- 20** 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.
- 21** 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. Decisions are binding on toll operators but not customers, who retain all their legal rights.
- 22** This is a matter in which I am satisfied, from the information provided by both Mr WM and go via, that Mr WM was a long term go via accountholder and user of the toll roads.
- 23** Mr WM opened his account in 2009 and states that he had no problem in paying his tolls for four years. It would appear from the material before me that, according to Mr WM, difficulties first arose when Mr WM lost his credit card or it had unauthorised transactions in 2013. He chose to top-up his account manually online using BPay with a reference number. He says that this process worked for a period of time.
- 24** He states that his problems then evolved from the fact that go via did not ever send him an invoice and he was unable to pay tolls because he did not have access to a payment reference number for BPay payments. He also states that he believed he had a faulty tag allocated to his vehicle.
- 25** He states, in 2013 because his tag was faulty he was charged on the basis of his numberplate being identified by go via's cameras for travel on the toll road. He also states that there was a problem with BPay payments due to changes in go via's processes.
- 26** I note that a complaint was made by him to go via on 18 February 2014.
- 27** I also note that go via corresponded with Mr WM on 24 February 2014. It advised him that his account had a negative balance of \$20.97 and there was an amount

outstanding of \$103.99. He was advised of how to top-up his account and the biller code required for payment through BPay. He was warned that non-payment of the amount and not bringing his account into order would result in Penalty Infringement Notices in excess of \$154 being issued for each outstanding toll that remained unpaid.

- 28** This was followed in early 2014 by his receipt of a Demand of Non-Payment of a toll from 2012, requiring payment of the toll together with a \$22 administration fee. Mr WM said that he then paid \$100 towards his account but it was credited to another account.
- 29** Mr WM made the payment of \$100 top-up towards his account on 4 April 2014. The credit was used as a consequence of travel on the toll roads and the account was suspended as no other top-up was received.
- 30** Separately, go via received \$100 on 29 April 2014 towards toll invoices issued for his vehicle. These invoices were issued for a default No Arrangement Travel account. The toll payment was made using the BPay reference but it was insufficient to cover the accrued balance of \$218.97, which left a balance of \$118.97 and a suspended account.
- 31** I further note that in correspondence from go via of 29 May 2014, Mr WM was advised of the consequences of not making appropriate arrangements to pay for tolls. He was told this would cause his account to become suspended and the tolls would be subject to a recovery process as determined by State legislation.
- 32** Mr WM was then advised there was \$340.72 overdue for tolls and the tolls would shortly move to the final stage of infringement and that each toll would receive an infringement notice and each toll would receive a demand notice of \$22.05. He was advised that approximately 40 demand notices were to be issued, which would increase the amount from \$340.72 to over \$1,200, and that under the State tolling legislation he would be liable for this full amount. He was further warned that the matter was urgent and the fees associated with the toll debt would not be waived. He was given a range of payment options.
- 33** Mr WM continued to travel on the toll road during suspension and the balance continued to escalate. Despite the fact that Mr WM stated that his tag was faulty, go via said his tag had been recognised on each occasion and produced records of 21 gantry tag recognitions between 17 July 2014 and 6 August 2014 recording his travel whilst his account was delinquent. Go via offered to replace his tag but this offer has not been taken up.
- 34** I am satisfied that Mr WM's tag was working and that he had received warnings about the need to pay his outstanding tolls and top-up his toll account to avoid any additional penalties. He was further advised on a number of occasions of methods of payment of his outstanding tolls and to top-up his account.

- 35** Mr WM has put forward a proposal to negotiate a resolution of the dispute with go via but with the pre-condition that all administrative fees be waived. I do not believe this is reasonable in the circumstances of the warnings that had been given by go via to him since February 2014 and his on-going travel on go via toll roads in the knowledge his account was delinquent up to the present time.
- 36** Mr WM was put on notice by go via of the likelihood of accruing these fees on a number of occasions and could have avoided them if he had regularised his account to avoid the imposition of such fees. I could not recommend that there be a waiver of fees in such circumstances. Further, if Mr WM wished to negotiate in good faith and had arguments about go via's system, he should have ceased his travel on the toll roads pending any resolution of the matter.
- 37** Mr WM also raised the issue of providing his email address to third parties, presumably go via's debt collection agencies, as a breach of his privacy. Go via drew attention to its privacy statement located on its website. This provides that by using go via's services or providing personal information, toll road users agree to the terms of the policy. Go via, under the Australian Privacy Principles, is entitled to refer details of Demand Notices for tolls and fees owing to government agencies or collection agencies to recover debt if customers are in default.
- 38** I am satisfied that Mr WM understands that he had an obligation to maintain his account in good order. I am further satisfied that he understood that he was required to meet the full amount of toll invoices or Demand Notices when sent to him but he did not meet these obligations.
- 39** According to information provided to me, this matter could have been initially resolved in February 2014 by Mr WM topping up his account and by making a payment of \$103.99. Despite warnings that failure to do this would result in penalties, he did not do so.
- 40** Again he was advised in May 2014 of outstanding tolls of \$340.72 and that the tolls would be advanced to infringement stage, thus increasing the amount owing on the tolls to over \$1,200 if they were not paid.
- 41** Despite these warnings, Mr WM continued to travel on go via's toll roads whilst his account was suspended and has allowed the matter to escalate to the situation it has now reached. Go via has provided information that as at 2 March 2015 there was \$723.12 owing on Mr WM's suspended account and \$3,303.60 on a No Arrangement account, with other monies outstanding the subject of Infringement Notices. Go via has warned Mr WM of the consequences of non-payment.
- 42** I am satisfied that go via has acted in accordance with the terms and conditions of its account with Mr WM. It, in addition, has consistently advised him of his obligations and warned him of the consequences of non-payment.

Decision

- 43** I cannot uphold Mr WM's complaint and recommend that he enters into negotiations with go via, its debt collection agency and SPER to pay the debt. I reiterate that this decision is not binding on Mr WM and he retains all his legal rights to seek alternative redress.

Michael Arnold
Tolling Customer Ombudsman

Dated: 12 March 2015