

DECISION

Background

- 1 The dispute centres on tolls and related fees not paid by a customer, Mr ET, for travel on Queensland Motorways toll roads. The Tolling Customer Ombudsman (TCO) understands this matter has been under discussion between Mr ET and go via, as the toll collector, since September 2014.
- 2 The TCO was copied into correspondence between these two parties since 3 October 2014. The matter has not been resolved. Go via relevantly advised Mr ET on 25 November 2014:¹

“I agree with your assessment that this issue would not have occurred had your go via account not been suspended.

The account was suspended, in line with our Terms & Conditions, because you did not maintain the account in a positive balance and therefore you did not pay the tolls within 3 days, as required. Further you did not pay the balance of the notices issued to you in full and by the due date.

I have explained to you on a number of occasions that these invoices appear to have been legitimately issued to you and as such I have no grounds to request that they are withdrawn.

I recommend that you make payment of the outstanding amount owing to SPER to avoid further escalation of the matter.”

and on 23 December 2014:

“I have explained to you on numerous occasions that the offence occurs when you do not pay the Demand Notice, in full, by the due date.

There is currently no outstanding amount owing to Queensland Motorways however, some payments have been received late and any unpaid tolls have now escalated to SPER.

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

Queensland Motorways have acted in accordance with our legal obligations and I regret to advise, once more, that I am unable to request that the notices referred to SPER be withdrawn.

I recommend again, that you make arrangements with SPER to pay the outstanding balance.”

3 Mr ET first wrote to the TCO on 2 October 2014, seeking the withdrawal of toll notices issued by the Department of Transport and Main Roads (DTMR):

4 On 11 October 2014 the TCO responded to Mr ET:

“The Tolling Customer Ombudsman does not have jurisdiction over the Department or the authority to make it withdraw its notices as a State Government Department of which go via does not form part.

Your circumstances should be explained to the Department (by) you. All correspondence between go via and the Tolling Customer Ombudsman can be provided to assist in this explanation.”

5 Subsequent to this, there has been correspondence involving go via, Mr ET and the TCO.

6 On 29 November 2014 the TCO notified the parties that as it appears that this matter will not be resolved by conciliation, a written Decision will be made. There has not been further resolution of the matter since then.

Discussion

7 The objective of the TCO is to resolve complaints, which fall within its jurisdiction, between toll road operators, which fund the TCO and agree to be bound by its jurisdiction, 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.

8 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.

9 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.

- 10 I am satisfied that the parties have had the opportunity to resolve this matter and it would not benefit from further mediation.
- 11 Mr ET held a pre-paid account with go via for travel on its toll roads, which was not maintained within its terms. As a consequence of this his account was suspended. Following the account suspension he was issued with a number of invoices or demands for payment of tolls and administrative fees.
- 12 He did not pay these tolls and fees by the specified dates by making payment of the fees set out in the notice at all or in full. Go via therefore referred the matter to DTMR Tolling Unit as it is required to do. The DTMR Tolling Unit then issued Infringement Notices to Mr ET in respect of the unpaid toll notices together with fees. Mr ET argues that there was no reason for DTMR to be involved in their relationship. This is not correct. Go via had to refer the matters to DTMR because of Mr ET's failure to meet Demand Notices.
- 13 Mr ET asserts that he had paid his tolls and that the matter should not have been referred to DTMR. Go via has provided evidence in relation to the suspension of his account due to the non-payment of toll invoices and Demand Notices. In these circumstances go via was entitled and required to escalate the collection of the unpaid tolls and fees to DTMR. The relevant legislation states that it is an offence to fail to comply with the stipulations of a Toll Road Operator's Demand Notice. In this regard s92 – s104 of the ***Transport Infrastructure Act (1994) Qld*** is pertinent.
- 14 It is apparent from Mr ET's correspondence that he has experienced financial difficulties that may have impacted on his ability to meet his commitments. Mr ET argued that because of a history of paid toll invoices that go via's notices should have been withdrawn. I cannot accept this argument as Mr ET had an ongoing requirement to meet his account obligations.
- 15 I do not find for Mr ET in respect to this complaint but reiterate he is not prevented from seeking alternative redress.

Decision

- 16 I cannot uphold Mr ET's complaint.

Michael Arnold
Tolling Customer Ombudsman

Dated: 6 March 2015