

## DECISION

### Background

- 1 The complainant, Mr AT, first brought a complaint to the Tolling Customer Ombudsman (TCO) in October 2014. CityLink subsequently notified Mr AT and the TCO that the Infringement Notice had been withdrawn by Civic Compliance Victoria (CCV) and apologised for any inconvenience this matter may have caused. The TCO wrote to Mr AT on 30 October 2014 as follows:<sup>1</sup>

“I trust your dispute is now resolved.”

- 2 Subsequently, on 14 April 2015, Mr AT again wrote to the TCO:

“I've been meaning to respond to you regarding the concerns which were previously raised - i actually thought i responded to this already. It's great to see that Citylink have now withdrawn the invoice, however by no means am i satisfied with the resolution.

Despite my numerous attempts to have the issue resolved and the countless times i was told "not to worry about it", the matter was still able to escalate to the point that there was a notice from the Sheriff's office informing me that the registration of my car was revoked, leaving me with no option but to be without a vehicle for a number of weeks!

The service provided by Citylink has been appalling. I struggle to comprehend that even the resolutions team would tell me that retrieving the phone calls and discussions i had with their contact centre staff was too big of a task!

Service continues to be a massive issue. Just this Sunday i spoke to a rude and unhelpful agent about setting up a new account, even my requests to speak to a manager were ignored. I'd encourage that this conversation was listened to as well. Details: Spoke with [J]? at approximately 9:20am on Sunday 12th of April.

To top it all, this afternoon I've received an email from Dun and Bradstreet seeking payment of an overdue invoice of \$34.24 - My account is set up on Direct Debit!!!

Citylink have been wasting my time and have caused me nothing but stress, inconvenience and left me in difficult and testing situations.

Where does it end?

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

I need action with this. What avenues do i need to take escalate this as high as possible? It has gotten well beyond ridiculous.”

**3** On 16 April 2015 the TCO acknowledged receipt of the correspondence and forwarded same to CityLink for investigation and response.

**4** On 19 April 2015 Mr AT emailed the TCO:

“Thanks for your prompt response. I will remind you however that this is not a new case or the first point of concern I've raised with you or Citylink regarding Citylink. I'd appreciate we not talk about it as if it were.

And as yet I'm still to hear from Citylink. How can I escalate this further with you, if not beyond that?”

**5** The TCO replied to Mr AT in the following terms:

“I acknowledge receipt of your email and note its contents.

The TCO process requires the relevant tolling business to put in writing to me their response to your complaint and to give you the further opportunity to comment on it. This means there is no misunderstanding.

A resolution adviser from the relevant customer resolution team would usually make contact to resolve the matter directly with you. However, they may elect to communicate via this office. In that case, on receipt of a response from the CityLink customer relations team I will again review your complaint.”

**6** On 20 April 2015 Mr AT responded:

“Just to keep you in the loop of what is happening, I've just received a collections phone call from Dun and Bradstreet regarding the "debt" referred to them on my account. My assumption would be that it is common practice to halt all collections activities while complaints are being investigated. I will remind you again that my account is setup on Direct Debit and has always been since the day it was opened.”

**7** On 21 April 2015 CityLink responded directly to Mr AT:

“You have contacted the Tolling Customer Ombudsman (TCO) regarding an Infringement notice you received and other issues regarding your CityLink account. I apologise for any inconvenience his matter has caused you.

I understand you received an Infringement Notice for travel on CityLink and believe this was due to a CityLink error. You have stated you were advised to “not worry” about the Infringement Notices and this resulted in the matter being referred to the Sheriff’s office. Our records confirm you contacted us on 3<sup>rd</sup> July 2014 which was after the matter had been referred. Unfortunately, we have no record of you contacting us when the Late Toll invoice was current. When you did contact us, we provided you with a letter to assist you with your dispute. This letter explained why the Toll invoice had been issued.

Additionally, you have raised a number of issues relating to your recent contact with us. I have reviewed the call recording and have provided feedback to the relevant manager. Of note, you were incorrectly advised that an account cannot be transferred into another customer's name, this is incorrect and I apologise for any inconvenience caused. If you would still like to make this change, please contact me directly and I can advise you of the process.

I have investigated your CityLink account and confirm on the 25<sup>th</sup> February 2015 your bank declined the payment CityLink requested. notifications were issued and at this time, your e-tag device was signalled to emit 4 beeps indicating a suspended account.

The account has been activated and has \$40.00 credit.

Again apologies for any inconvenience this matter has caused you."

**8** On 23 April 2015 Mr AT replied to CityLink, copied to the TCO, as follows:

"First of all, on the 11th of July 2014, I replied to an email you sent me. There are a number of things from that email which have not been addressed.

They are:

1. Call recordings of all my conversations with Citylink since and including the conversation in which I initially set up my eTag account
2. What CityLink intend to do regarding the situation i was placed in having my car de-registered as a result of CityLink's errors.

Previously you have advised that you only keep your call recordings for 90 days. My assumption is that calls older than that are archived. I don't see this as, a good enough reason not to be reviewing these calls as you seem to have been doing to date. Pull out the archives, find the calls, listen to them and come to the party.

I've also been previously arrived by numerous consultants that my account has been noted thoroughly and reflect exactly what i have been disputing. I find it very strange that you're now saying you can't find any record of me contacting you regarding the original invoice. That is ridiculous.

In addition to what was never provided earlier, i now request:

3. Transcripts of my phone conversations with CityLink since and including the conversation in which I initially set up my eTag account
4. A copy of all contact notes on my accounts)

Also, after receiving a call from Dun and Bradstreet on Monday, I received an SMS from them regarding a "debt" on Tuesday. Serious?"

**9** CityLink responded to Mr AT, copied to the TCO, on 30 April 2015:

"Thank you for your reply to [A]. As [A] is currently on leave I am responding on her behalf. Please accept my apologies for any inconvenience this matter has caused.

I note that you have raised multiple concerns in your email, I will attempt to respond to all of them in turn.

**1. Call recordings of all my conversations with CityLink since and including the conversation in which I initially set up my eTag account**

CityLink records calls for training purposes only and as previously advised by [A] these are only held for a period of 90 Days (of note this has recently changed and is now 6 months), after this period the calls are deleted and are not archived as you have suggested. Due to this we are unable to provide the requested recordings from when your CityLink account was opened in 2013.

**2. What CityLink intend to do regarding the situation i was placed in having my car de-registered as a result of CityLink's errors**

As previously advised by [A], the first noted contact to CityLink regarding the relevant offence was at warrant stage on 03/07/14. Prior to this CityLink had issued a Toll Invoice on (01/05/13) and Final Notice (on 20/05/13) advising of the outstanding toll. Additionally Infringement Notices were issued by Civic Compliance Victoria prior to this matter reaching warrant stage. I appreciate you have advised you contacted CityLink and were told to disregard this Infringement, unfortunately we have no record of you contacting us regarding this prior to 03/07/14.

**Previously you have advised that you only keep your call recordings for 90 days. My assumption is that calls older than that are archived. I don't see this as, a good enough reason not to be reviewing these calls as you seem to have been doing to date. Pull out the archives, find the calls, listen to them and come to the party.**

As mentioned above CityLink does not have these recordings.

**I've also been previously arrived by numerous consultants that my account has been noted thoroughly and reflect exactly what i have been disputing. I find it very strange that you're now saying you can't find any record of me contacting you regarding the original invoice. That is ridiculous.**

As mentioned above, there is no record of contact regarding this matter prior to 03/07/14.

**3. Transcripts of my phone conversations with CityLink since and including the conversation in which I initially set up my eTag account**

**4. A copy of all contact notes on my accounts)**

As advised we do not have recordings or transcripts of any contact prior to this matter reaching warrant stage. Of note the only contact we have had regarding this matter has been these email conversations and the original call received on 03/07/14 regarding the warrant.

**Also, after receiving a call from Dun and Bradstreet on Monday, I received an SMS from them regarding a "debt" on Tuesday. Serious?**

As per the previous email from [A], a payment was made to your account on 20/04/15 which brought it into a credit of \$40, this payment cancelled the debt collection on your account.

I have CC'd the Tolling Customer Ombudsman Mr Michael Arnold into this email for his reference.”

**10** On 18 May 2015 Mr AT wrote to the TCO:

“My apologies for the delay in getting back to you regarding Citylink's latest email. I've recently returned from leave.

I'd like to know your thoughts on Citylink's response. I'm puzzled as to how they could possibly think that the responses they've provided to my requests are adequate. I've been very specific in all my requests and they've failed to deliver on a single one.

I have not asked for short excuses, I've asked them to provide the details which they do have. Call recordings, transcripts and account notes - whatever they do have, not to tell me they don't have much.

I am furious. I do not wish to deal directly with Citylink from this point on regarding my complaints. It is disgusting to say the least.

How is it that you and the government allow Citylink to operate in such a pathetic manner?!

No way of tracking customer and consultant interactions in-house?! what a joke! No other regulated industry in the country would be allowed to operate like this!

In numerous conversations with Citylink over the course of my problems their agents have told me that the account is heavily and clearly noted. I even recall instances in which I was required to do minimal explaining as their agents were able to see what had been discussed previously. To be told now that there are no notes is unbelievable.

I'm currently speaking to my phone provider about providing call records, dates, times and call durations of every phone call I've made to Citylink since 2013.

Is there an escalation process? What do I need to do to escalate this from here? I'd like to have the matters resolved before I seek my own legal advice.”

**11** On 1 June 2015 the TCO enquired of Mr AT:

“I refer to your email. Do you have further information to provide me?”

**12** Mr AT responded on 6 June 2015:

“I've now received my call records from Optus. I'll be reviewing them in the coming days and will respond and provide you with any evidence I can gather from them.”

**13** On 23 June 2015 Mr AT emailed the TCO as follows:

“After filtering through individual call records made from my mobile ([number]), I've been able to put together the table below, displaying when I've called CityLink on 13 26 29

Date	Time	Duration
16/03/13	23:06	0:03:00
17/03/13	22:28	0:02:00
17/03/13	22:31	0:04:00
11/04/13	18:17	0:18:00
09/08/13	18:10	0:08:00
12/08/13	16:25	0:03:00
27/08/13	18:55	0:07:00
04/07/14	16:09	0:17:00

I recall from memory that there were a number of calls I would have made from my work phone during this time as well. Unfortunately, due to how far back some of these calls date and the fact that I would have been in different roles with different work phones, that tracking down these call records will not be possible.

I remind you that they claimed that they only had notes of when I called to set up the account and after the a warrant from the sheriff's office had been issued. This is either clearly false and a complete failure on CityLink's part in data integrity and accurately recording customer interactions. It is far too convenient that they don't have calls and then ALSO don't have any contact notes. Regardless, I do not see what relevance CityLink's argument is in how they're claiming I only called after the issuing of a warrant as it does not change the point that CityLink clearly made a mistake and severely inconvenienced me - far worse then they seem to be able to comprehend, acknowledge and admit.

My car was de-registered as a result of their negligence - making it illegal for me to use!

At the time, every call was the same - they were aware of the error, the accounts were noted and I did not have to worry about the late invoice. Now, all evidence on their end seems to have disappeared. I recall conversations in which I did not even have to explain the situation as their operators were able to read through the notes and understand what the problem was and what i was after.

To date:

- I still haven't received a copy of all my contact notes on my CityLink account(s)/calls
- CityLink are still to advise how they intend to compensate/recognise their errors to me

I await your advice.”

- 14** On 29 June 2015 the TCO acknowledged receipt of the above correspondence, noted its contents and advised Mr AT that it has been forwarded to CityLink for comment.
- 15** The TCO received CityLink's response below on 6 July 2015, which was then provided for Mr AT's information on 7 July 2015:

“In regards to [Mr AT's] reply, I believe we have adequately addressed all raised concerns.

Additionally as a summary of the complaint our records are as follows:

Infringement notice/warrant received was for travel the day before [Mr AT's] CL account was opened. At the time the vehicle addition was back dated one day however the travel was prior to the time of addition. We have no records or recording of the conversation at this time.

No further contact was received by customer until he had been contacted by the Sherriff. At this time customer was provided with all relevant information regarding the account opening and Toll invoice travel to dispute infringement.

Upon further contact, as a gesture of goodwill CityLink intervened and had the warrant withdrawn.

There is nothing to suggest a CL error occurred and as such no compensation has been offered."

**16** To which Mr AT immediately replied:

"It seems Citylink aren't taking this very seriously are are discounting the information I have provided and choosing to completely ignore the entirety of my requests. Is there a next escalation stage?"

**17** The TCO advised Mr AT on 8 July 2015:

"I acknowledge receipt of your email.

I can make a formal Decision in this matter. Any Decision I make that is adverse to you is not binding on you. Such a Decision does not deprive you of your legal rights in any way. You can pursue redress through the Courts or seek assistance from your local Member of Parliament.

Please advise if you require me to make a formal Decision."

**18** Mr AT replied:

"Please proceed with making a formal decision on the matter."

## **Decision**

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

- 20** 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.
- 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.
- 22** 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 CCV.
- 23** I am satisfied that the parties have had the opportunity to resolve this matter and it would not benefit from further attempts at mediation.
- 24** There has been a protracted period of correspondence between Mr AT and CityLink in which CityLink has endeavoured to deal with the issues raised by Mr AT. According to the material provided to me, CityLink has addressed all the matters raised by Mr AT and taken steps to remedy certain problems he has encountered.
- 25** Mr AT is not satisfied with the responses but I do not believe that CityLink can take any further steps that will satisfy Mr AT's concerns. I have noted the service issues that Mr AT has raised. It is my practice to regularly discuss issues of toll operator service in my six-monthly Review and I will take Mr AT's concerns into account.
- 26** CityLink, as a gesture of goodwill, provided information that assisted in the warrant being withdrawn for unpaid tolls. There is no other remedy I can provide to Mr AT in the circumstances of his complaint. As indicated earlier in this Decision, my determination is not binding on Mr AT and he retains all his legal and other rights to pursue the matter.

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

**Dated: 7 August 2015**