

## DECISION

### Background

- 1 The complainant, [Ms D], first made a complaint to the Tolling Customer Ombudsman (TCO) on 16 February 2012, as follows:<sup>1</sup>

*“To whom it may concern,  
The below and followup emails were sent to your office today.  
I am sorry I used the name and address of the Victorian Ombudsman (who directed me to you)  
I would like to make it clear this is a Citylink complaint and I am asking for your assistance.*

...

*My complain is about Citylink, I have tried to phone the office number 132629 only to be put on hold for a large amount of time. Below is a copy of the emails sent to Transurban that have not been responded to, it is hoped that you will assist me in seeking fair dealing and justice in this matter.*

*Regards [Name of Ms D]  
[home address and telephone number]*

...

*This is resent as no response given.  
Further to the below I have started to be sent late toll advices and I would like to know is it consumer affairs or the ombudsmans office itself who deals with your offices and the dubious practise of sending out mail months late for it would seem the purpose of raising revenue through late toll notices.”*

Email from [Ms D] to [creditteam@transurban.com](mailto:creditteam@transurban.com) referred to above:

*“To whom it may concern,  
I received a notice today suspiciously dated the 12 of January 2012, and saying that it was issued on that date.  
Today's date as you will be aware is the 15 of Feburary 2012 this notice was written over a month ago I have been travelling on Citylink up until today*

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

*without any warning of this. I received a recent statement stating my account was up and running so it is outrageous that I will be charged latetoll notices on everyday from the 12 of Jan until today that I travelled on the Link. My account number is [\*\*\*513] in the name of [Ms D]. Please consider this a complaint that requires action. As I tried to ring the 132629 and the waiting time was said to be over 20min and the spokes person advised me to call back later which would be difficult I am sending this email and putting a copy in my files.”*

2 The complaint was acknowledged by the TCO on 17 February 2012 and forwarded to CityLink for response.

3 On 26 February [Ms D] emailed the TCO as follows:

*“Hi I was wondering how long I would have to wait for a response from Transurban about my complaint, as I have heard nothing back at all.”*

4 On 29 February 2013 [Ms D] emailed the TCO as follows:

*“I am wondering if you are actually doing anything. I keep getting late toll notices that are increasing to 100dollars a pop as noone is responding. I have had no contact from transurban all you do is say I will pass it on. I have asked for help as Transurban refuse to respond and you just simply do the same thing over again”*

5 The TCO responded to [Ms D] on 1 February:

*“The TCO, like all ombudsmen, must have a process that is open, transparent and fair to both the relevant tolling business and their customers. Accordingly, it is necessary for me to ensure to my satisfaction that the parties understand the nature of the dispute between them and have had the opportunity to comment on all aspects of it before seeking to resolve it.*

*This involves a process where I require 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 Resolutions Advisor from the relevant customer resolutions group 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 Transurban customer resolutions group I will again review your complaint.”*

6 [Ms D] emailed the TCO that same day in the following terms:

*“Well the response that I am getting is many Late Toll notices mounting up to 100s of dollars and threat of loss of license. Does that put it in perspective for you?”*

*They are not responding and not acknowledging any contact. I have directly ask you before how long this process will take and I was told simply that I have passed your concerns on to Transurban that is not an indication of time or due process. No one is suggesting that you be unfair and at this stage I have no knowledge of your processes other than this email although they were requested.”*

7 On 13 March 2012 CityLink notified the TCO that this matter had been resolved.

8 Then on 28 October 2012 [Ms D] again contacted the TCO in the following terms:

*“It is with regret that I again contact your office. Some 2 months ago I contacted Citylink about my account.*

*I discussed with them whether or not it was better to by day passes for my intermittent travel or to use the existing account.I was assured by the CSO that as I was coming and going on the days of travel a cap of \$7.40 would be placed on my daily travel to fall in line with the day pass scheduled fee and it would work out the same. I have since been receiving my account bills only to find that on many days I have been charged upto 20 dollars for the days travel, when this is well in excess of the 24hr pass fee of 14.40 for two days. I complained about this and now have an outstanding bill of around 300 dollars to pay. I was sent a letter from the Citylink department over three weeks ago saying they would look into my complaint, however I have had no response.*

*I have been charged sometimes triple what I was quoted and have given several weeks for a response or action and nothing has occurred. I request your assistance in this matter.”*

9 The TCO acknowledged [Ms D's] email on 29 October 2012 and forwarded same to CityLink for response.

10 [Ms D] responded:

*“Mr Arnold I have already lodged a complaint it has now been over 3weeks and I have had no response.*

*As per information in previous email.”*

11 The TCO responded to [Ms D], outlining the TCO's process once a complaint is received, to which [Ms D] responded:

*“I appreciate your impartiality. Does this mean you have contacted the Citylink Resolution centre?”*

- 12 On 30 October 2012 CityLink responded to the TCO. This response, together with attached letter, was forwarded to [Ms D] on the same date:

*"I acknowledge receipt of your email. CityLink has provided me with the following together with attachment:*

*'I advise that we have issued the attached letter to [Ms D], on the same day this complaint was received (29 October 2012).*

*As per the attached letter I have advised [Ms D] that CityLink does not have a daily cap (only a single direction trip cap) and apologised for any miscommunication regards to this.*

*Therefore the amounts she has been charged are correct and in line with CityLink's toll prices.'*

*I trust this addresses your concerns."*

- 13 The contents of the attached letter from CityLink to [Ms D] quoted:

*"Thank you for your recent enquiry.*

*I understand that you were unhappy with the level of service received from a call centre staff member and were provided with incorrect information.*

*I confirm that CityLink does not have a daily toll cap; however a cap does apply for single one way trips through the CityLink toll way (currently \$7.38).*

*Please accept my sincere apologies that the level of service you experienced did not meet your expectations. It was disappointing to learn of your experience and that your concerns were not addressed.*

*We appreciate your comments as it enables us to improve our service levels.*

*Thank you again for your enquiry, please contact me on (03) 8656 8770 if I can be of further assistance."*

- 14 [Ms D] emailed the TCO later that day as follows:

*"Thank you for attaching the letter as a response.*

*I would like to dispute the claim made.*

*I was informed when I asked the CSO officer when I queried what would be the cheapest way to make several same day trips on Citylink that a cap would be applied and the officer said "It would make no difference, the amount would be the same as a 24hourpass".*

*Given that I received this information from and authorized CSO of Citylink and there was no misunderstanding about what was being asked and what*

*was being communicated in return I made decisions about travel based on their information.*

*At this point I am being penalized for their misinformation and have been put at a disadvantage because of this.*

*Further to the information about being given an answer to my complaint on the day, this is not true I complained on that day at what I believe to be the misleading information given from one of Citylinks CSO when I received my account and I was told a complaint would be put through and this would be followed-up.*

*I received a letter over three weeks ago saying that this was being investigated which I have a copy of and nothing since today.*

*I have been treated unfairly and I wish to continue with my complaint.”*

**15** On 31 October 2012 [Ms D] emailed the TCO:

*“Further to my last email, today I received a copy of the letter through the mail which was a hard copy of the letter that was attached to your email yesterday.*

*Please advise whether you will continue with my complaint.”*

**16** On 2 November 2012 the TCO sought further information from [Ms D]:

*“I acknowledge receipt of your email and note its contents. Please advise if you have calculated how much you owe CityLink.”*

**17** At the same time the TCO sought information from CityLink:

*“Below are emails dated 30 and 31 October received from [Ms D], together with my response.*

*I ask that you calculate the difference in [Ms D's] account if she was only required to pay for single trips. I await your response.”*

**18** [Ms D] responded to the TCO's email as follows:

*“At this point when I looked at the most recent statement and saw the daily rate reaching at times over 16 dollars (Instead of the 7 amount) I immediately contacted Citylink as the information given to me early was that it was capped, so I have not even looked at the previous two months worth of statements that I did not even check(as I assumed I was being charged the rate quoted) and the funds were deducted.*

*t this stage I would need to go through the ones since the inquiry to Citylink and calculate the amounts charged, as I stated I assumed they were charging the rates that the CSO quoted to me since I started needing to make several trips per day. I am sorry if this causes a delay in your enquiry. Up until the point I contacted you I was waiting for the response that letter (resulting*

*from my complaint ) informed me that I would be getting to investigate the matter.*

*As stated previously when several weeks elapsed and this did not occur I contacted you.”*

**19** The TCO acknowledged [Ms D’s] email:

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

*I am seeking further information from CityLink and will further review your complaint on receipt of same.”*

**20** This was acknowledged by [Ms D].

**21** On 5 November 2012 CityLink provided the TCO with the requested information as follows:

*“As requested the difference between the quoted daily toll cap and the actual tolls, between 28/08/2012 and 28/10/2012 was \$192.89.”*

**22** On 9 November 2012 [Ms D] emailed the TCO:

*“It is with regret today that I have received a solicitors letter from Geoffrey Mendelsons Lawyers who say they are acting for Probe Collections for Citylink, they have added \$80 to the amount owing and now are demanding that I pay \$367-98 to recover the debt that I have requested that you investigate.*

*I am awaiting further communications from you as to what is necessary to resolve this complaint.*

*I am still disputing the amount as you will remember from my previous emails. I am also a little concerned as since I have had communications with you and your office my emails have been I guess the best word is hacked. Daily I can not open this site and often can not send.*

*If I do not respond to your correspondence please send a hard copy to my home address.*

*As this matter has become Urgent.”*

**23** On 12 November 2012 the TCO emailed [Ms D], providing a copy of all previous correspondence on file. The TCO also requested:

*“Please advise how much you calculate you owe CityLink.”*

**24** The TCO forwarded [Ms D’s] email of 9 November 2012 to CityLink.

25 [Ms D] responded to the TCO's email of 12 November 2012 as follows:

*"I have managed to go back over the statements and attached is what I believe, from the information that I was given by Citylink was the correct amount for travel over the period after I discussed the matter with them. However there were a couple of dates that were not available to me on the statement which dated from when I started the work for the new company requiring multiple travel ( that is why the information was requested from Citylink originally) economically."*

26 The attachment was provided and is on file.

27 On 15 November 2012 the TCO acknowledge receipt of [Ms D's] email and advised her that he will get back to her on completion of discussions with CityLink. The TCO then emailed CityLink in the following terms:

*"I enclose information from [Ms D] which seems to indicate discrepancies in the amount owed by her to CityLink.*

*I think that resolution of this matter should be explored on the basis of a credit towards future tolls for 50% of the amount outstanding."*

28 [Ms D] emailed the TCO on 15 November 2012 as follows:

*"I could only recognize that you had sent this email through this site at 8pm on the 15th.*

*Please CC emails to my daughters address at [email address]*

*this may allow me at least have access to your communications on the time and date sent. (It also was not sent to the inbox in a usual format)*

*I had messages on my home phone left by Probe Collections today when I tried to call back the message said that they were closed.*

*Please advise what the next step should be."*

29 On 19 November 2012 [Ms D] again emailed the TCO:

*"I am a little concerned about the complaint can you please tell me what is happening. The phone number listed on your site is only a recording and does not allow me to speak to anyone or leave a message."*

30 On 21 November 2012 the TCO acknowledged receipt of [Ms D's] emails, copied to her daughter's email address as requested, and confirmed that the matter will be followed-up with CityLink as a matter of urgency. The TCO then emailed CityLink as follows:

*"I refer to my email of 15 November and enquire as to the progress of the resolution of this matter in line with my suggestion as follows:*

*'I think that resolution of this matter should be explored on the basis of a credit towards future tolls of 50% of the amount outstanding.'*

*Below are emails from [Ms D] of 15 and 19 November, which are self-explanatory.*

**31** On 4 December 2012 [Ms D] emailed the TCO:

*"I have heard nothing since the 21/11 can you please update me. I was forced to use citylink on the weekend due to traffic difficulties, I went to buy a daypass and was given a message that my vehicle can not be issued with anypasses which means now I have travelled without a pass. I will be given a late toll notice. Could you please let me know what to do quite urgently."*

**32** The TCO responded to [Ms D] on 6 December 2012:

*"I acknowledge receipt of your email and note its contents.*

*I will forward your email to CityLink Customer Resolutions for urgent attention."*

**33** On 19 December 2012 CityLink responded to the TCO:

*"Thank you for your email. Please accept my apologies for the delay in our response.*

*I acknowledge your comments regarding applying a credit towards future turns for 50% of the amount outstanding.*

*I confirm the outstanding amount is \$287.98. In this instance, I have applied a credit of \$143.99 on [Ms D's] Account which may be used for future tolls.*

*In order to reactivate Access Account number [\*\*\*513], [Ms D] will need to make an Account payment of \$143.99. Until this occurs, alternate tolling arrangements will be required for vehicles on Account, [\*\*\*978] and [\*\*\*642]."*

**34** The TCO emailed this information to [Ms D], copied to her daughter's email address, as follows:

*"I refer to previous correspondence in this matter. CityLink has now responded to me as follows:*

*'Thank you for your email. Please accept my apologies for the delay in our response.*

*I acknowledge your comments regarding applying a credit towards future turns for 50% of the amount outstanding.*

*I confirm the outstanding amount is \$287.98. In this instance, I have applied a credit of \$143.99 on [Ms D's] Account which may be used for future tolls.*

*In order to reactivate Access Account number [\*\*\*513], [Ms D] will need to make an Account payment of \$143.99. Until this occurs, alternate tolling arrangements will be required for vehicles on Account, [\*\*\*978] and [\*\*\*642].'*

*I consider this offer reasonable in the circumstances. Please advise if CityLink's offer is acceptable to you in resolution of this matter."*

**35** On 11 January 2013 CityLink notified the TCO in the following terms:

*"Can you please advise [Ms D] her recent credit card payment of \$143.99 earlier this week towards her account was unsuccessful. As a result, her CityLink account remains suspended."*

**36** This information was conveyed to [Ms D], copied to her daughter's email address, immediately on 11 January 2013.

**37** [Ms D] responded to the TCO:

*"I have no idea what this is about I am waiting for a response from citylink as you advised why are they deducting funds from my account. I am unsure whether this is actually the tollingombudsomans office I am receiving emails from. The emails have been quite far apart and there is not a valid phone number that I can confirm that this is you or your office. Is this just an off shoot of citylink anyway. As far as I know I owe citylink about 30 dollars. Your phone number is just a message it does not allow input or to be transferred. I have my doubts as to what is actually happening here."*

**38** On 14 January 2013, clarification was sought from CityLink as to [Ms D's] account status. On receipt of CityLink's response, the TCO emailed [Ms D] on 15 January 2013, copied to her daughter's email address, as follows:

*"I refer you to my email to you (copied to your daughter's email address) of 21 December 2012, which outlined the situation with your account.*

*CityLink confirms that, in line with my suggested resolution, a credit of 50% of the outstanding debt was applied to your account on 19 December 2012. This leaves \$143.99 owing by you to CityLink. CityLink further informed me:*

*'As [Ms D's] Access Account has a billing cycle for the seventh of each month, the January statement was generated on 7 January 2013 and the automatic payment facility attempted to debit the outstanding balance of \$143.99...'*

*This was unsuccessful. Your CityLink account will remain suspended until such payment is made."*

**39** [Ms D] responded that same day, 15 January 2013:

*"you were advised that I had difficulties with emails.  
I did ask you to send out hard copies because of this.  
I have had nothing from Citylink to tell me they were deducting funds.  
Also I state again I was quoted 14.40 for two days travel and the charges of upto 40 dollars a day are no where near this amount  
I have been grossly overcharged and just accepting half of an amount that I should not have been charged in the first place is outrageous.  
I intend to take this to my member and the media because others also should know about this and how they are simply getting away with it.  
I am saddened that you would justify this attempt to take funds without notice and allow me to be charged amounts that I should not have been charged and then being expected to be grateful for being over charged a lessor amount."*

**40** On 22 January 2013 [Ms D] emailed the TCO:

*"I have spoken to my State Member, who also thinks that it is quite strange that although I am requesting it from your office, citylink and Probe no one will send me anything in writing only emails, and that although I have requested to speak with you I am not given a phone number that will put me through to anything except a recorded message that does not allow for any messages or transfers.*

*I am being hassled almost daily by Probe, you are not responding.  
I am again requesting a signed letter from your office so that I may take this matter to my State member for further action."*

**41** [Ms D] emailed the TCO again on 22 January 2013:

*"I have just been sent an email from citylink, although I requested correspondence in writing this letter now stated that my preferred method of communication is via email which is obviously not true and why would I get this out of the blue anyway. This again is suspicious given that I am requesting all information in writing as my State Member's office has asked me to do so .*

*When I rang the Melbourne office of Citylink and spoke to [R] a CSO to again request to speak to a supervisor who could assist me with my ongoing complaint I was told that unless I gave this CSO all my private information she would refused to transfer me, finally after requesting again and again to be transferred I was transferred to someone called [M] the manager of Melbourne CS center as she identified herself. When I explained that I wanted to speak to someone who would definitely make sure that I was sent formal letters as this was an ongoing case I was then told why don't I go to the ombudsman. I said I had been dealing with the ombudsman and was told that she should be speaking with him and not me about this. I again asked to speak to someone who had the capacity to make sure my correspondence was formalized I was then argued with and rudely dismissed."*

- 42** On 22 January 2013, the TCO emailed [Ms D], copied to her daughter's email address:

*"I acknowledge receipt of your email of 15 January and two emails of today's date.*

*The TCO requires that complaints be made in writing to ensure clarity and accuracy. The scheme, for the sake of certainty, requires that customer's complaints and toll operators' responses be put in writing to each other. The TCO will contact a customer or toll operator to discuss any matters if the issues are not clear.*

*There has been considerable correspondence in this matter and the issues are clear. There is no agreement in relation to information said to have been provided by the CityLink operator in respect of the cost of travel on the toll road. The information you say was provided does not accord with the costs at the time.*

*In these circumstances, I believe that the 50% reduction in charges is reasonable in view of your usage of the road between 15 August and 8 October 2012. It removes all additional No Tag in Vehicle fees and is a discount on the fees chargeable for such usage.*

*A copy of this email will also be mailed to you at [Ms D's home address].*

- 43** [Ms D] responded to the TCO on 22 January 2013:

*"If you read my previous information you will find that the phone call was recorded about the fee.*

*It is me who is asking for the letters in writing I want your decision and all correspondence to me in writing as the State Members office has asked for it."*

- 44** On 1 February 2013 a letter addressed to [Ms D], [home address], was despatched by the TCO. The letter said:

*"I refer to your email of 22 January 2013 and enclose copies of all correspondence in your complaint.*

*A written Decision will be prepared and provided in due course."*

## **Decision**

- 45** 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.
- 46** 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.
- 47** 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 CityLink and cannot determine matters in relation to allegations against Civic Compliance Victoria or other outside bodies.
- 48** I have reconsidered all the correspondence and the issues in this complaint, including:
- [Ms D's] recollection of the conversation with CityLink's call centre staff member in which she says that she was told that CityLink had a daily toll cap.
  - CityLink did not have a daily toll cap but did have a cap for a single one way trip.
  - [Ms D] would have been liable to pay \$192.81 if she had been charged daily single toll fees.
  - CityLink sent statements to [Ms D] in respect of tolls and charges.
  - [Ms D's] explanation in respect of her not checking her statements for two months and so not noticing the charges.
  - CityLink's responses to [Ms D's] complaint.
  - CityLink's reduction in Probe fees and the provision of \$143.99 in credit towards [Ms D's] account.
- 49** I accept that [Ms D] may have misunderstood the information provided by the CityLink call centre operator in relation to the daily travel caps for travel on CityLink as there was no daily toll cap as [Ms D] indicates that she was told.

- 50** However, [Ms D] was provided with statements from CityLink that set out the tolls and other charges being imposed. An examination of these statements at an earlier stage would have alerted her of the charges and enabled more immediate contact with CityLink to resolve problems arising from any misunderstanding. This would have reduced [Ms D's] exposure to Late Toll Invoices and liability for additional fees.
- 51** I am satisfied in these circumstances that CityLink has acted reasonably in its efforts to resolve this matter by way of a compromise, which I consider fair.
- 52** [Ms D's] complaint is not upheld.

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

**Dated: 8 February 2013**