

## DECISION

### Background

- 1 The complainant, Mr BC, first made a complaint to the Tolling Customer Ombudsman (TCO) on 29 November 2012, as follows:<sup>1</sup>

*"I wish to lodge a complaint regarding CityLink.*

*I received a Late Toll Invoice ([Invoice Number \*\*\*972]) issued on 19 April 2012 for the sum of \$24.78. I paid the fee on 3 May 2012 via EFT from my [Name] bank account on 3 May 2012.*

*An Infringement Notice Number [\*\*\*595] was issued to me for a toll zone offence on 28 March 2012 which is the date on which I travelled on CityLink and incurred the Late Toll Invoice mentioned in the previous paragraph. I requested an internal review for the Infringement Notice with supporting documentation relating to the payment made on 3 May 2012. In response, I received a letter from the Traffic Camera Office of the Victoria Police dated 26 October 2012 advising that 'CityLink is unable to find any payment you made against the LTI. Therefore please provide us with a bank statement of the payment you made.' I subsequently provided this information and have now received a Penalty Reminder Notice. It appears that CityLink has not provided the Victoria Police with accurate information and I am very annoyed.*

*Would you please investigate this matter on my behalf.*

*My full name is [Name of Mr C] and the registration number of the vehicle in question is [\*\*\*900]. I will be please to provide you with any documentation you require."*

- 2 On 30 November 2012 the TCO acknowledged receipt of the complaint and forwarded same on to CityLink for response. The TCO noted that:

*Following changes to the law with the amendment to the Infringements Act 2006, I advise that I do not have the power to deal with individual infringement notices once they are issued by Civic Compliance Victoria as I do not have jurisdiction over that Government agency."*

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

3 Mr BC responded to the TCO:

*"Thank you for your prompt acknowledgement of my email.*

*I have already lodged a complaint with CityLink but have not had a response as yet. Hopefully the organisation will respond to me now that you have forwarded on my complaint."*

4 On 10 December 2012 Mr BC emailed the TCO:

*"I wish to lodge a formal complaint against CityLink.*

*CityLink has failed to advise me that the organisation received payment of \$24.78 on 3 May 2012 for a Late Toll Invoice, No [\*\*\*972]. According to my bank statement, these monies were withdrawn from my account in the name of [Name] Pty Ltd and paid directly to CityLink's bank account on 3 May 2012.*

*A member of CityLink's Customer Resolutions Team called me and subsequently spoke to my partner on 4 December 2012. The staff member was not very helpful and, after a lengthy discussion during which he was provided with all relevant information (bank account details etc), he stated he would have to refer to the Billings Department. We still have not had heard anything further and I am most dissatisfied with the manner in which this complaint has been handled. It is incredulous that CityLink has received payment but cannot confirm this. Furthermore, at no time did I receive a Final Notice after CityLink issued the Late Toll Invoice, which is part of the organisation's procedure as stated on its website. Had I received a Final Notice I would have been able to address the situation at the appropriate time.*

*It appears that CityLink has failed in its duty to comply with its own procedures including the procedure adopted to deal with complaints in a timely manner. I have email correspondence with CityLink regarding this matter and can provide a copy if you require it.*

*I ask that you attend to my complaint and look forward to your response."*

5 The TCO responded to Mr BC that day, confirming that CityLink's comments will be sought on the issues raised.

6 On 24 December 2012 Mr BC copied the TCO into correspondence that ensued between CityLink and Mr BC.

7 On 14 January 2013 CityLink provided the TCO with the following response:

*"There has been some recent correspondence between [Mr C] and [EM] (CityLink's Group General Manager). I have copied the email trail below. Can you please send these details to [Mr C] and assist in facilitating a resolution in this matter.*

The following information is in response to [Mr C's] email below, dated 24 December 2012.

### **Payment of 3 May 2012**

The payment of \$24.78 was received on 3 May 2012 via BPAY on Late Toll invoice (LTI) number [\*\*\*750].

Payment of the requested amount on LTI [\*\*\*750] of \$31.98 had previously been received on 30 April 2012, within the payment terms. As no further payment was required for LTI [\*\*\*750], the payment of \$24.78 received on 3 May 2012 was correctly refunded on 9 May 2012. (Unfortunately the email from [Mr F] incorrectly advises the refund occurred on 3 May 2012.)

Where an overpayment is received on an LTI, CityLink refunds the overpaid amount to either via cheque. Alternatively, if located, the overpayment may be applied to an outstanding LTI for the same vehicle or to the customer's CityLink Account. CityLink did not, and does not, attempt to contact customers via telephone regarding LTI overpayments or refunds.

### **Poor performance of Customer Resolutions at CityLink**

Excluding the above mentioned incorrect date of the refund, the information provided by [Mr F] was correct. There was a delay in the final response dated 24 December 2012 to [Mr C's] email to the Ombudsman dated 30 November 2012. Of note, [Mr F] left voice messages for [Mr C] and [Ms S] on 14 December 2012 on [\*\*\*489] and [\*\*\*844].”

8 Quoted below are the attachments referred to in CityLink's correspondence.

a) Mr BC's email of 24 December 2012 addressed to [Ms EM]:

*“Thank you for your email today which I received after [Mr F] wrote to me. There are several issues still unresolved to my satisfaction.*

*I do believe you have been incorrectly advised of certain facts contained in [Mr F's] email. First, my bank account ([Name] Pty Ltd) shows a payment made to CityLink on 3 May 2012 for the Late Toll Invoice of \$24.78 issued on 19 April 2012, a copy which is included in the attached documents. Second, [Mr F] states that this payment was for a Late Toll Invoice paid in full on 28 April 2012 for my other vehicle ([\*\*\*674]) for travel on 22, 23 March 2012. This was paid on 28 April 2012 via EFT from the same bank account and was for the amount of \$31.98, **not \$24.78**. I have attached a copy of this Late Toll Invoice for your information as well. In addition, I paid on 2 May 2012 the sum of \$25.74 for a Late Toll Invoice issued on 18 April 2012 for my vehicle [\*\*\*674]. I have paid Late Toll Invoices for both vehicles by the due date **prior** to opening a CityLink account. Third, [Mr F] incorrectly states that the amount of \$24.78 was refunded to [Name] Pty Ltd on 3 May 2012. According to your email, the refund cheque was issued on **9 May 2012** which*

*was deposited on 7 June 2012. I do not understand what you mean by your reference to trying to contact me about this. What method of contact did you use and when did you try to contact me?*

*As stated previously, I never received a Final Notice despite the information provided to you by [Mr F]. If this had occurred I would have dealt with the matter immediately, given that I had already paid the Late Toll Invoice. It is possible that this Final Notice was lost in the mail. Nevertheless, this does not excuse the poor performance of your Resolutions Team.*

*I wrote to you and [Mr C] about the lack of compliance with CityLink's internal procedures for resolving complaints. I have attached for your information all the correspondence I have had with [Ms W] since 4 December 2012 which I am sure you will agree is unsatisfactory.*

*Given the above, it appears to me that the opinion I have formed about your internal systems being in disarray (which I stated in my email to you and [Mr C] on 20 December 2012), still stands.*

*[Mr F] states in his letter the procedure I am required to follow once I receive an Infringement Notice. I consider this quite insulting as I have already followed these procedures and my partner, [N], had already informed the customer resolution officer who spoke to her on 4 December 2012 that this had occurred and that a Penalty Reminder Notice had already been issued which was of great concern. She pointed out to your staff member (who did not provide her with his name) that if this matter cannot be resolved by CityLink it will have to be adjudicated in Court. I have attached all the correspondence with Civic Compliance Victoria and the Victoria Police for your information.*

*I requested an apology in my previous email to you for the incompetence of your company with respect to this unfortunate matter. Although you have apologised 'for the inconvenience' I am uncertain that you appreciate that this matter has caused my partner and me great inconvenience, unnecessary stress and fruitless hours spent trying to resolve this matter.*

*I hope that you do address the systemic failures of your systems as soon as possible."*

b) Email from [Ms M] to Mr BC dated 24 December:

*"Thank you for your email (below). I apologise for the inconvenience this matter has caused.*

*I believe you received the attached email earlier this morning from one of our Resolution Advisors ([Mr F]). **This email from me supercedes [Mr F's] email as he was unaware that this had escalated to me. In summary, although we think it was correctly issued, we are requesting the Infringement Notice to which you referred be withdrawn.** You do not*

*need to contact Civic Compliance Victoria (CCV) directly at this stage as they should be in contact with you within the next 4 to 6 weeks with an outcome.*

*The detail is as follows:*

*As outlined in [Mr F's] email, the below Late Toll Invoice (LTi) was issued for travel in [\*\*\*900] (Vic).*

LTI number	Licence Plate number	Date of travel	LTI issue date	Amount	Final Notice issue date	Amount
[***972]	[***900] (VIC)	28 March 2012	19 April 2012	\$24.78	8 May 2012	\$35.56

*You indicated you did not receive a Final Notice from us. Both the LTi and Final Notice were issued to [address] (copies attached). As we didn't receive payment of this LTi or Final Notice, the matter escalated to the Victoria Police (and you have now received an Infringement Notice for this travel).*

*You advised \$24.78 was paid to CityLink via EFT on 3 May 2012. We have located this payment, which was incorrectly made to an old LTi number [\*\*\*750] for a different vehicle. As such, we issued a refund cheque for \$24.78 on 9 May 2012, which has been presented. I apologise you had not been advised of this earlier, however I believe we had been trying to contact you and were also liaising with the Tolling Customer Ombudsman's office.*

*In the attached email, I note [Mr F] indicated you need to submit a written application for an Internal Review to Civic Compliance Victoria (CCV). As you have advised you have already done so, we will provide these details to CCV on your behalf. Although technically the above LTi escalated to an Infringement Notice correctly (as it was unpaid), CCV can consider this further information regarding your attempt to make payment to the incorrect LTi. CCV will write to you in the next 4 to 6 weeks with an outcome."*

- c) Email from Mr BC to Mr C, CEO, Transurban and [Ms M] dated 20 December 2012:

*"I am writing to you to advise you of several issues regarding the performance of CityLink's internal operations, in particular, the Billings Department and the Customer Resolutions Team.*

*Prior to opening a CityLink account I incurred a Late Toll Invoice which was due and payable on 3 May 2012 in the amount of \$24.78. I paid this amount via EFT from my bank account and my statement supports this. At no time did I receive a Final Notice which is part of the procedures listed on CityLink's website if a Late Toll Invoice is not paid by the due date. To my dismay, I received an Infringement Notice from Civic Compliance Victoria (No [\*\*\*595]) for a toll zone offence on 28 March 2012 - this is the offence relating to the payment of \$24.78. I requested an internal review and the response I received was that CityLink was unable to find any payment. I was asked to provide a bank statement which I did, however, under the law, only one*

*internal review is allowed. Accordingly, I received a penalty reminder notice and, if I do not pay the amount, I will have to go to Court to defend this matter.*

*In addition, I have tried unsuccessfully on several occasions to have CityLink provide me with a letter confirming that payment was made. Again, CityLink has failed to follow its own procedures in resolving customer complaints and I still have not had my request addressed. I had filled out an online complaint form on CityLink's website and wrote to the Tolling Ombudsman who forwarded my complaint to CityLink's resolution team. On 4 December I received an email from [Ms W] and, despite one lengthy telephone call with one of her staff members which was most unsatisfactory, I have not had a return call or responses to several emails. I have since written to the Tolling Ombudsman who has advised that he is seeking information from CityLink regarding this sorry state of affairs.*

*I find it extraordinary that your internal procedures are in such disarray and object strongly to have to address this matter by writing to both of you.*

*I am seeking:*

*1. An apology from you for erroneously advising the Victoria Police that I did not pay the fine.*

*2. A letter stating that you have written to the Victoria Police/Civic Compliance Victoria (Traffic Camera Office) that you wish to have the infringement notice and penalty notice withdrawn as it was your company's error in the first place.*

*3. A letter addressed to me advising that I had paid the fine on 3 May 2012 so that I can provide this to Civic Compliance Victoria and the Court, if I have to make an application to have this matter heard in Court.*

*Confirmation of receipt of this email is required."*

**9** Following CityLink's email of 14 January 2013, on 16 January 2013 the TCO wrote to Mr BC:

*"I refer to previous correspondence in this matter. I have received the following information in response to your email of 24 December 2012:*

*'The following information is in response to [Mr BC's] email below, dated 24 December 2012.*

**Payment of 3 May 2012**

The payment of \$24.78 was received on 3 May 2012 via BPAY on Late Toll invoice (LTI) number [\*\*\*750].

Payment of the requested amount on LTI [\*\*\*750] of \$31.98 had previously been received on 30 April 2012, within the payment terms. As no further payment was required for LTI [\*\*\*750], the payment of \$24.78 received on 3 May 2012 was correctly refunded on 9 May 2012. (Unfortunately the email from [Mr F] incorrectly advises the refund occurred on 3 May 2012.)

Where an overpayment is received on an LTI, CityLink refunds the overpaid amount to either via cheque. Alternatively, if located, the overpayment may be applied to an outstanding LTI for the same vehicle or to the customer's CityLink Account. CityLink did not, and does not, attempt to contact customers via telephone regarding LTI overpayments or refunds.

### **Poor performance of Customer Resolutions at CityLink**

Excluding the above mentioned incorrect date of the refund, the information provided by [Mr F] was correct. There was a delay in the final response dated 24 December 2012 to [Mr BC's] email to the Ombudsman dated 30 November 2012. Of note, [Mr F] left voice messages for [Mr BC] and [Ms S] on 14 December 2012 on [\*\*\*489] and [\*\*\*844]."

- 10 On 16 January 2013 Mr BC emailed the TCO as follows:

*"Thank you for your email of 16 January 2013.*

*I trust that you received all the documentation which was attached to my email addressed to [Mr M] and copied to you on 24 December 2012. If not, I have attached it again.*

*The information you quoted in your email is totally unsatisfactory. I still do not understand why the payment I made on 3 May 2012 was refunded. Furthermore, [Mr F] claims that he tried to contact me and [Miss S] on 2 mobile numbers, neither of which belong to us. I have no idea where these mobile numbers have come from but [Miss S] does not have a mobile phone and my mobile is [\*\*\*293]. It is most peculiar.*

*I await your final determination regarding my complaint."*

- 11 Mr BC further emailed the TCO on 18 January 2013 in the following terms:

*"In my email of 16 January 2013 I omitted to mention that my issues regarding the Resolutions Team go back to when I first contacted them on the CityLink website in late November. Copies of several emails spanning a number of weeks are included in the set of documents provided to you. Hence, the response from CityLink only dealt with the company's response to your enquiries, not my initial contact."*

12 An officer from the TCO's office responded to Mr BC:

*"I acknowledge receipt of your email and confirm it will be added to your file for consideration by the TCO."*

13 On 22 January 2013 the TCO emailed Mr BC:

*"I have reviewed your emails of 16 and 18 January 2013 together with attachments.*

*I will seek further comment from CityLink and get back to you in due course."*

14 The TCO received a response from CityLink on 1 February 2013 as follows:

*"In response to the concerns raised by [Mr C], I advise:*

- The payment of 3 May 2012 received via BPAY on Late Toll Invoice (LTI) number [\*\*\*741] was refunded as payment had already been received for this LTI. We did not make an assumption about the intended purpose of the overpayment.*
- Our records indicate the mobile numbers [\*\*\*489] and [\*\*\*844] were provided to CityLink as contact numbers for Everyday Account number [\*\*\*741] on opening on 30 April 2012. I acknowledge [Mr C's] advice and have removed these details. The only contact number now recorded for [Mr C] is [\*\*\*293].*

*Additionally, please find attached a copy of [Ms M's] response to [Mr C] dated 24 December 2012.<sup>2</sup>*

15 This information was forwarded to Mr BC on 5 February 2013.

16 Mr BC responded that same day:

*"Thank you for your email of today's date which included the response from CityLink.*

*Having reviewed the response I make the following comments:*

*1. There is still no satisfactory explanation as to why CityLink believed that the payment made from my bank account on 3 May 2012 related to a previous 'LTI'. I do not understand what is meant by "We did not make an assumption about the intended purpose of the overpayment."*

*2. It is quite disconcerting to read that CityLink recorded 2 mobile phone numbers unknown to [Ms S] and me when the account was opened on 30 April 2012. I find the assumption inherent in the statement that the mobile numbers 'were provided to CityLink as contact numbers' quite alarming -*

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<sup>2</sup> Quoted in paragraph 8b) above.

*again, CityLink appears not to take responsibility for their errors, which has been the subject of my complaint to you.*

*3. CityLink has not addressed the concerns I raised about the incompetence of their Customer Resolutions Team with respect to their delays in resolving my issues, the lack of knowledge of their staff, particularly the staff member who spoke to [Ms S] and failed to follow through with his promise to get back to her after checking with the Billing Department and the general mismanagement of the entire complaint process.*

*I trust you will take these comments into account when you finalise your decision. Do you have a date by which you will have a decision?"*

**17** On 11 February 2013 the TCO wrote to Mr BC, copied to CityLink, as follows:

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

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

**18** On 15 February 2013 the TCO sought further information from Mr BC:

*"Please advise if you have had to pay the Civic Compliance Victoria Infringement fee."*

**19** Mr BC responded as follows:

*"I believe the Penalty amount of \$144.60 which was due on 5 January 2013 has been revoked (obligation number [\*\*\*544])."*

**20** On 20 February 2013 the TCO wrote to Mr BC in the following terms:

*"Thank you for your email of 15 February 2013. I will proceed to make my decision on the basis that there are no monies outstanding in respect to this dispute to CityLink and Civic Compliance."*

## Decision

- 21** 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.
- 22** 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.
- 23** 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 CityLink and cannot determine matters in relation to allegations against Civic Compliance Victoria (CCV) or other outside bodies.
- 24** There is no doubt that Mr BC had the right to complain about a number of CityLink service issues for which CityLink must take responsibility. CityLink has responded to Mr BC's complaint but he remains dissatisfied with its response, despite the fact there are no longer any monies due to CityLink or CCV.
- 25** CityLink did act in a proactive manner in dealing with CCV in respect to the Infringement Notice withdrawal and has endeavoured to explain the circumstances that led to the involvement of CCV.
- 26** There appears to be no explanation of how and why CityLink had recorded the mobile telephone numbers of [\*\*\*489] and [\*\*\*844] for Mr BC and [Ms S]. Mr BC has denied that they had such mobile telephone numbers or had supplied them to CityLink as contact numbers. CityLink states that these were the numbers recorded with the account and that its representatives had left recorded messages.
- 27** In these circumstances I can only reinforce the importance of the recording of all customer information by toll operators, such as CityLink, to ensure a high standard of customer service is maintained.
- 28** I note that Mr BC has requested an apology from CityLink for "the incompetence of your company with respect to this unfortunate matter". CityLink responded with an apology "for the inconvenience" caused to Mr BC. He was not satisfied with such an apology due to the stress and hours of work involved in resolving the issues surrounding the matters in dispute. I am satisfied from CityLink's apology and the actions taken to resolve the matter that there is sufficient evidence of its regret over the matter.

- 29** The issue at the core of the complaint is CityLink's failure to recognise the payment of \$24.78 on 3 May 2012 as a payment of a Late Toll invoice that was due and payable on that date. This resulted in a refund of the amount as an overpayment. CityLink did not assume or establish that the payment was in respect of the Late Toll invoice due for payment on 3 May 2012 for the same amount.
- 30** I am satisfied that there has been a failure of service on the part of CityLink in this matter. I believe that it is appropriate that Mr BC's account should be credited with \$50 for future travel on its toll roads.

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

**Dated: 5 March 2013**