

DECISION

Background

- 1 The complainant, Mrs TB, first made a complaint to the Tolling Customer Ombudsman (TCO) on 29 June 2015, as follows:¹

“I want to make a formal complaint in relation to the above mentioned issue and the way this issue has been dealt with.

- I want to advise you that through an error of my own I entered incorrect details (Licence Plate Number [XY***] instead of [XM***]) online, but I also added my correct car details, see below:

[Make / Model / Colour / Year]

- I contacted EastLink via phone at 11:06 am 26th June 2015 to inquire about why I had been paying so much on my account and this is when i was informed by the representative I was talking to over the phone that I had been paying for a commercial vehicle and that I was being charged even more than I should be paying as commercial vehicles are charged more.
- I have paid approximately \$324.33 for a commercial vehicle since 1/8/2014 up until 26/6/2015. At no time has Eastlink contacted me to verify why a commercial vehicle was using my account without an approved e-tag.
- I requested that my written enquiry be escalated to management and that I be provided with a copy of their policy regarding this registration error but instead I received the attached response from customer administration.

Below you will find an email complaint from myself to EastLink and EastLink’s response, also the attached is an email I sent directly to EastLink which has a log of the vehicle entries/exits from my online account.

Could you please advise me of my rights and where I stand on this matter as feel that there has been no quality control and the commercial user should incur the cost and I should be refunded. This issue could be happening to many others.

Thank you for your time and I look forward to hearing from you.”

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

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

3 On 3 July 2015 EastLink provided Mrs TB, copied to the TCO, with the following:

“We have investigated your complaint and would like to advise you of the outcome.

While you appreciate that you have stated that it was an honest mistake in linking the incorrect Licence Plate Number (LPN) to your EastLink Account. We confirm that Account Statements have been issued to your email address [address] on a Quarterly basis, which clearly states all the (LPN) details linked to your Account.

We have attached a copy of our Prepaid Account Customer Service Agreement, which states that it is the customer’s responsibility to ensure that Account details are accurate and up-to-date at all times. Failure to do so may result in additional fees and charges being applied to your Account, which has occurred in this instance.

As we have found no error on behalf of EastLink we respectfully decline your request for full reimbursement. However, we would like to assist you in recovering some of the costs you have incurred by placing a goodwill credit of \$40.00 to your EastLink Account.

We confirm that your current balance is \$60.98 in credit.”

4 Mrs TB replied to EastLink as follows:

“A good will gesture of \$40 is insubstantial compared to the \$324.33 or more which I have been made to pay for a commercial vehicle. I would still like the total amount which was taken out of my bank account for the commercial vehicle to be fully reimbursed. I will await to hear from the Tolling Customer Ombudsman and see what is advised in relation to this matter.

As part of my online application I was required to provide details of not only my car registration, but also provide the full details of the type of vehicle I drive, which I did.

My vehicle details were entered correctly online. I drive a 4WD, not a **commercial vehicle** which I have clearly been paying for as stated previously in my emails for as far back as 1/08/2014 up until 26/6/2015.

There was clearly only one vehicle registered on my online account not two, definitely no commercial vehicle is linked or mentioned so this in itself should have set off an alarm with your online system.

The commercial vehicle that I have been paying for on my E-Tag, is clearly not mine and clearly has a different LPN/Tag Serial #, this is my LPN/Tag Serial # [***09].

Whilst I understand that it is the customers responsibility to check their statements, I firmly believe that a company must show due diligence to ensure that the type of vehicle is also that which has been detailed/provided online to eliminate incorrect fees being charged and taken out of customers bank accounts.

I believe Eastlink do not have sufficient secure measures in place to cross check the type of vehicle being charged to an EastLink account and therefore this may be happening to many others.

Thank you for your time and response.”

5 On 7 July 2015 the TCO sought further comment from EastLink on Mrs TB’s contentions. EastLink responded:

“The customer has not raised anything new in her response.

We emphasise the following points:

- The customer had linked the incorrect vehicle Licence Plate Number online herself
- Statements have been issued on a regular basis to the customer with the LPN details clearly stated
- The points about LCV charges are irrelevant as we are bound to charge the account based on what information we are provided
- No fault has been found on EastLink’s part

We are willing to add an additional \$25.00 credit to her account. This will bring the amount to \$65.00 of good will credit, which we feel is more than generous considering the circumstances.”

6 The TCO conveyed this to Mrs TB, who responded:

“An extra \$25 a total of \$65 is still insubstantial compared to the total amount of money which I have been made to pay for the commercial vehicle. As stated previously i will not settle for anything less than a full reimbursement.

EastLink have missed the point in relation to the LCV charges. EastLink state ‘The points about LCV charges are irrelevant as we are bound to charge the account based on what information we are provided’ this point is not irrelevant and I believe this statement is contradicting as I had entered all the correct details for a car and yet I was still charged for LCV.

Why would Eastlink think the vehicle was LCV and charge accordingly? Either their system recognises the number plate from another registered commercial account holder or a photo of the vehicle was taken to determine it was LCV.

I would also like to bring to your attention that I contacted Eastlink again via email last Friday 3rd July 2015 (see attached email) to question why EastLink had taken a total of \$60 out of my bank account within the span of seven days. On the 26th June 2015 (the day I made the original phone call to EastLink) \$30 was taken out of my bank account by EastLink and then again on the 1st July 2015. I am confused as to why the amount of \$60 has been deducted from my bank account within that one week period as I had not used any EastLink tolls during this period, I did not receive a response to this email. An Eastlink statement is not available online for these transactions.

As far as I'm concerned EastLink must be accountable for the functioning of their online systems as there is clearly a flaw with the way the system is functioning."

7 On 8 July 2015 EastLink responded to the points raised by Mrs TB as follows:

"We can confirm that vehicle with Victorian Licence Plate Number (LPN) [XY***] was originally linked as a Car. Please view the below screenshot (the highlighted dates indicate when the vehicle was added and removed from the account).

Prepaid Tag	CE	1	Mitcham-Frankston Motorway	XY [REDACTED]	VIC	2	CAR	NO	06.02.2015	26.06.2015
Prepaid Tag	CE	1	Mitcham-Frankston Motorway	XY [REDACTED]	VIC	2	CAR	NO	14.03.2013	02.01.2015

We confirm that the customer has only ever been charged as a Car for her EastLink Toll Account.

This has further been stated on the customer's EastLink Account Statements (see below)

Tag Number	Licence Plate Number	State Of Registration	Class	Total Trips	Total Toll Charge	Average Charge per Trip
-	XY [REDACTED]	VIC	CAR	58	\$167.48	\$2.89

The EastLink Operator [Ms TB] spoke to on 26 June 2015 had confirmed that (LPN) [XY***] was being charged as a Light Commercial Vehicle on the EastLink Account. She was incorrect as she confirmed what CityLink had the vehicle registered as but not what was actually being charged to the EastLink Account.

When a vehicle travels on EastLink and CityLink without a Tag being detected, a photograph is taken of the (LPN) when the vehicle travels under a Toll Gantry. This image then goes through an internal auditing process to ensure that we have captured the information correctly. During consolidation, the system will run a search to see if the (LPN) is registered to a valid account.

We will then apply the travel to the customer's Toll Account. This system is used by other Toll Roads around Australia and we are confident in its performance. This system's performance is based on the accuracy of the information provided to EastLink by the customer. **We cannot anticipate every hypothetical scenario or error a customer makes.**

We confirm that the customer has previously agreed to automatic payments for her EastLink Account.

As the customer had authorised automatic top up payments, we topped up the account by debiting the chosen bank account or credit card with a single payment equal to the minimum number of multiples of the Top Up Amount required to restore the account balance to at least the Minimum Balance.

Please note that automatic payments have now been removed from the customer's account as this is an ongoing complaint.

We are concerned that the customer remains rigid in her expectations as seen in her quote below:

“As stated previously i will not settle for anything less than a full reimbursement.”

We believe EastLink has been reasonable, and we again respectfully decline her request for full reimbursement.”

8 Mrs TB replied to EastLink’s submission:

It is clear EastLink will not admit any fault, EastLink have however stated in their previous email received today *'The EastLink Operator [Ms TB] spoke to on 26 June 2015 had confirmed that (LPN) [XY***] was being charged as a Light Commercial Vehicle on the EastLink Account. She was incorrect as she confirmed what CityLink had the vehicle registered as but not what was actually being charged to the EastLink Account.'* this is confusing as now I have been advised it is CityLink who is also at fault.

I have still had no response in relation as to why EastLink took yet another \$30 which was deducted from my bank account on the 26th June 2015 and another \$30 1st July 2015, a total of \$60 when I definitely did not travel on the EastLink in this period.

The fact of the matter is I have paid over \$324.33 or more for a vehicle whether it be car or commercial vehicle which is not mine. I have also been advised if I had joined and opened an EastLink account over the phone I would have been given a full refund but because I joined myself online EastLink will not provide a full refund.

I do believe that in relation to this complaint it may require you the Tolling Customer Ombudsman to advise of an outcome to this matter.

Thank you for all your assistance and time to date.”

9 On 21 July 2015 Mrs TB emailed the TCO:

“I was just wanting to provide you with documentation in relation to the total of \$60 which was deducted out of my [Name] bank account and also a screenshot of my EastLink statement.

Further to EastLink's email dated 8th July 2015, I have since further investigated EastLink's screenshots of my statement showing that I was charged only for a car and not an LCV.

Below you will see the screenshot provided from EastLink showing I was charged only for a car and not a LCV but EastLink failed to show you the full screenshot which shows I was being charged twice on my account with my LPN ([***09]) and then again for the incorrect vehicle registration [XY***].

EastLink screenshot

Tag Number	Licence Plate Number	State Of Registration	Class	Total Trips	Total Toll Charge	Average Charge per Trip
-	XY [REDACTED]	VIC	CAR	58	\$167.48	\$2.89

My own screenshot



Statement

Account Number [REDACTED]
 Statement Number [REDACTED]
 Issue Date 15 May 15
 Statement Period 15 Feb - 14 May 15
Current Balance \$17.29cr

Account Summary

Account Type
 Pre-Paid Tag Account
 Account Name
 [REDACTED]
 Account Address
 [REDACTED]

Additional Information

Telephone Typing Service(TTY) 133 677
 Speech Impaired Service 1300 555 727

Tag Number	Licence Plate Number	State Of Registration	Class	Total Trips	Total Toll Charge	Average Charge per Trip
-	XY [REDACTED]	VIC	CAR	58	\$167.48	\$2.89
[REDACTED] 09	-	-	CAR	4	\$23.48	\$5.87

	Credit	Debit
Previous balance as at 15 Feb 15	\$30.38	\$0.00
Total payments received	\$240.00	\$0.00
Total toll charges - EastLink	\$0.00	\$11.01
Total toll charges - CityLink	\$0.00	\$179.96
Total toll charges - Other toll roads	\$0.00	\$0.00
Total fees, charges and adjustments*		\$39.11
Sub Total	\$240.00	\$230.08
Total GST for this statement period	\$0.00	\$23.01
Total (including GST)	\$240.00	\$253.09

*See Detailed Charges on last page

Screenshots of bank my [Name] bank account showing \$30 being deducted 1/7/2015 & 26/7/2015

(Removed to comply with Privacy legislation)

Did EastLink ever get back to you in relation to the second aspect of my complaint?"

- 10** Following further discussion with EastLink, on 24 July 2015 the TCO informed Mrs TB:

"EastLink is of the view that it has responded to all of your issues in its correspondence of 8 July 2015 forwarded to you."

- 11** Mrs TB responded:

"Could you please inform me off what the process is from this point on?"

- 12** On 31 July 2015 the TCO replied to Mrs TB:

"The TCO provides a free and independent dispute resolution service for customers of toll operators. If a customer is not satisfied with the outcome achieved the customer retains all legal and usual rights to pursue their complaint."

- 13** On 3 August 2015 the following exchange of emails took place. This exchange was forwarded to Mrs TB on 8 August 2015.

Mrs TB to the TCO:

"Does the TCO consider the dispute resolved based on EastLinks responses or is the TCO still reviewing this matter?"

TCO to EastLink:

"Please advise if there are any outstanding issues in relation to [Ms TB's] account payments so that I can respond to her."

EastLink to the TCO:

"We confirm that the Automatic Payments made to [Ms TB's] EastLink Account were legal and authorised.

This is consistent with our policy regarding Account Top Ups.

As the customer had authorised automatic top up payments, we topped up the account by debiting the chosen bank account or credit card with a single payment equal to the minimum number of multiples of the Top Up Amount required to restore the account balance to at least the Minimum Balance."

14 On 11 August 2015 Mrs TB wrote to the TCO as follows:

“In response to EastLinks email dated Monday 3rd August 2015 in relation to the Automatic Payments taken from my account. I was advised on the day I made the first initial phone call to EastLink 11:06 am, 26th June 2015 that all payments would be stopped as of this date due to realising that the incorrect vehicle was being charged. I was then later advised via another email from EastLink on 7th July 2015 that they would credit my account with a total of ‘\$65.00 of good will credit’, yet on two separate occasions \$30 on the 26th June 2015 and another \$30 1st July 2015, a total of \$60 was deducted from my account after the initial call. So the fact of the matter is the total of \$60 deducted from my account after the initial phone call should NOT have been taken out.

As stated in previous emails It is clear that EastLink will not admit any wrong doing on their part so what can I do from this point forward to get a resolution to this matter? I feel it is pointless to continue sending emails back and forth at this point as this matter does not seem to be progressing. Is it the TCO who will make the final binding decision? If not the TCO could you please advise what i should do next.”

15 On 13 August 2015, following a call for further submissions prior to making a Decision, the following correspondence was received by the TCO and exchanged between the parties:

From Mrs TB:

“For your records and information I have attached all the statements showing the two vehicles being charged on my account.

I am happy for you to make the final decision in relation to this matter and addressing the following points:

- Paying more than \$324.33 for two vehicles since mid-2014 when clearly I registered only one vehicle online and the statements attached show two vehicles being charged.
- Being advised 26 June 2015 via my initial phone call that all payments would be stopped as of the date of the phone call yet a total of \$60 was taken out after this date when I had not travelled on the EastLink between these times.
- Being advised by the operator over the phone when I made initial contact 26 June 2015 that I was being charged for a LCV, then later being told no that this was incorrect information that had been provided to me and CityLink has been the one charging me for a LCV, I received no apology.

I am looking forward to receiving your decision in relation to this matter.”

From EastLink:

“I have again reviewed the call made with EastLink on 26 June 2015.

At no stage did the customer request that Automatic Payments cease in that call.

We refer you to EastLink's response on 8 July 2015:

"As the customer had authorised automatic top up payments, we topped up the account by debiting the chosen bank account or credit card with a single payment equal to the minimum number of multiples of the Top Up Amount required to restore the account balance to at least the Minimum Balance.

Please note that automatic payments have now been removed from the customer's account as this is an ongoing complaint."

We confirm that \$40.00 of goodwill credit has been applied to her Account. Upon an offer of an additional \$25.00 to be applied to the customer's account, the customer rejected the offer. As a result we have not added the \$25.00 credit at this stage.

"An extra \$25 a total of \$65 is still insubstantial compared to the total amount of money which I have been made to pay for the commercial vehicle.
As stated previously i will not settle for anything less than a full reimbursement."

We await your decision."

Decision

- 16** 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.
- 17** 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.
- 18** 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, such as Government agencies like Civic Compliance Victoria or SPER. Decisions are binding on toll operators but not customers, who retain all their legal rights.
- 19** I am satisfied that the parties have had the opportunity to resolve this matter and it would not benefit from further mediation.
- 20** The dispute in this matter arose from Mrs TB's belief that she was paying tolls on her vehicle [XM***] at the rate applicable to a commercial vehicle. This was not correct. Her belief was created in a conversation with an EastLink operator on 26 June 2015 when the operator mistakenly conveyed this information.
- 21** Mrs TB's complaint now firstly centres on the fact that she had been paying tolls on a vehicle from 1 August 2014 to 26 June 2015 that did not belong to her. This circumstance arose because of her providing incorrect Licence Plate Number details for her vehicle [XM***] to EastLink on 1 August 2014.
- 22** The initial problem was compounded by Mrs TB not detecting from her toll account statements the incorrect Licence Plate Number had been recorded. As EastLink was reliant on information provided by Mrs TB there was no way that EastLink could identify the problem.
- 23** EastLink has provided a copy of its Pre-paid Customer Service Agreement, which states that it is the customer's responsibility to ensure that account details are accurate and up-to-date at all times. It warned that failure to do so may result in additional fees and charges being applied to her account, which happened in this instance. Mrs TB asserts that she had been overcharged by \$324.33.

- 24** I am satisfied that EastLink has not charged Mrs TB \$324.33 on the basis of tolls applicable to a commercial vehicle. I understand that the tolls were incurred by a vehicle not belonging to Mrs TB but again there was no way that EastLink could have detected this on the information available to it.
- 25** Mrs TB has raised issues about the EastLink tolling system. The tolling system used by EastLink is consistent with that used by other toll road operators around Australia. This system identifies a vehicle's Licence Plate Number and then charges the customer's toll account. Licence Plate Numbers are issued by State Government for registration and identification purposes. Their use for vehicle recognition is the most effective and reliable process for tolling and other purposes.
- 26** EastLink will not be able to recover the \$324.33 at law. EastLink, despite this, has credited Mrs TB's account with \$40 as a gesture of goodwill and offered a further \$25 credit. Mrs TB has regarded such offers as insufficient.
- 27** Although I am satisfied that EastLink was not the cause of Mrs TB incurring the additional \$324.33 in tolls, there have been service issues in relation to identifying her vehicle as a commercial vehicle on 26 June 2015. I recommend that EastLink provide an additional \$60 to the already applied credit of \$40, which would effectively mean a refund of in excess of quarter of the tolls charged.
- 28** Mrs TB has also raised issues about the automatic deduction of amounts from her bank account. EastLink has provided an explanation for the deductions, which were allowable under its account arrangement with Mrs TB and were required to restore her account balance to at least the minimum balance.
- 29** I am satisfied that Mrs TB was not over-charged in the process. I note the automatic top-up payments have now been removed from the customer's account. I am satisfied that there is no entitlement to compensation in respect to this issue.

Decision

- 30** I find that EastLink provide a further \$60 to Mrs TB as a goodwill gesture.

Michael Arnold
Tolling Customer Ombudsman

Dated: 28 August 2015