

## DECISION

### Background

- 1 The complainant, Mr L, first made a complaint to the Tolling Customer Ombudsman (TCO) on 7 June 2012, as follows:<sup>1</sup>

*"I wish to raise 4 complaints about Go Via and Queensland Motorways Operations Pty Ltd*

*1: Of all the tolling points operated by Queensland Motorways Pty Ltd located in Queensland none have the price point displayed at point of sale. As a consumer travelling at speed I have no way of telling the cost to me of entering into contract of sale.*

*2: On the 26th May 2012. The Go Via accounts operators refused to supply a tax invoice in a timely manner with out extra cost. I have paid Go Via \$100.00 requesting a tax invoice for my company expenses and they refuse to issue an invoice until the 1st of each month unless I'm willing to pay an extra \$3,52. This puts me without the ability to claim back my costs for up to 4 weeks. Any other supplier to me supplies me immediately with a tax invoice on payment.*

*3: On paying my casual account with credit card, the telephone operator told me they could not advise me the amount of money that would be debited from my credit card. I was told they would not know all the charges for at least 4 days after each toll point was past. When I told the operator I would rather wait until they could tell me how much I would be charged, the operator then told me if I waited another 1 day I would be committing an offence and would be further penalised.*

*4: On or about the 30th May I contacted Go Via by telephone and requested that the loan motor vehicle I was driving while waiting for my regular to be delivered from the dealer, could be allocated to my new Go Via Tag. Thereby saving me from calling the accounts every 3 days with my credit card. The woman took my name and agreed. Once I got my car I registered online with the car rego.*

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

*Thinking all my tolls would be charged to my account, I received a bill for \$399.00 of which approximately \$30.00 is for toll fees and the remaining \$270.00 is for administration fees.*

*After talking to the 2nd tier manager they refuse to acknowledge my previous call to them about the loan car, and secondly they justify the admin charges as appropriate.*

*The tolls I claim from my company, so there would be no reason I would try to avoid paying tolls. It just doesn't make sense to do that. But Go Via refuse to accept what their staff told me.*

*It is not reasonable to charge me more than 10 times the charges in administration fees.*

*I have tried to talk to them, but they are the law unto themselves.*

*I ask that this company conform to reasonable expectations of business practices. And to not exploit and take advantage their consumer monopoly."*

2 The TCO acknowledged receipt of the complaint on 8 June 2012:

*"Thank you for your email.*

*The Tolling Customer Ombudsman is an independent person appointed to help customers of Breeze<sup>®</sup>, CityLink<sup>®</sup>, EastLink<sup>®</sup>, go via<sup>®</sup>, Hills M2<sup>™</sup>, Roam<sup>®</sup> and Roam Express<sup>®</sup> tolling businesses resolve complaints fairly, efficiently and free of charge. The complaints may be resolved by way of conciliation, mediation or arbitration and the parties may negotiate a settlement at any stage.*

*Each complaint received is processed in an orderly way so that it can be dealt with on its merits and in a manner that is fair to both the customer and relevant tolling business. Before the Tolling Customer Ombudsman can deal with your complaint, you must have:*

- (a) first lodged a formal complaint with the relevant internal customer resolutions group;*
- (b) (i) have either received a negative response to that complaint; or*  
*(ii) allowed the complaint to be resolved through the relevant internal customer resolutions group.*

*Accordingly, I have forwarded a copy of your complaint to the go via customer relations team at [customerrelations@qldmotorways.com.au](mailto:customerrelations@qldmotorways.com.au) for response.*

*If your complaint is not resolved you may seek my assistance again."*

3 Queensland Motorways Pty Limited (QML) responded to Mr L, copied to the TCO, on 8 June 2012 as follows:

*"Thank you for your email, a copy of which has been forwarded to me by the Tolling Customer Ombudsman.*

On 1<sup>st</sup> July 2010 toll price signage was removed from the Queensland Motorways road network. At this time toll prices and fees and charges on our network changed and new vehicle classes were introduced.

New toll point signage on the Gateway and Logan motorways was installed which no longer displays the toll costs. The new signage encourages motorists to visit the go via website ([www.govia.com.au](http://www.govia.com.au)) for information on the new vehicle classes and toll prices or to call our Contact centre on 13 33 31.

Toll price signs are not common on free-flow tolling networks. Depending on how and where a customer pays their tolls, some customers may incur fees in addition to the toll.

Queensland Motorways wanted to avoid any confusion, particularly for non-account customers.

The new signage is consistent with signage on other toll road networks in Brisbane and Australia.

Customers can confirm the toll prices either online at [www.govia.com.au](http://www.govia.com.au), by calling our Contact centre on 13 33 31 or by visiting one of our Customer Service Centres. We also provide our retail outlets with brochures which contain information in relation to the toll costs.

Queensland Motorways issues Tax Invoice Statement monthly, on the first of each month. It is not possible to produce a Tax Invoice Statement mid month. A receipt can be generated for payment received. Your Tax Invoice Statements are available to download from [www.govia.com.au](http://www.govia.com.au). A fee of \$3.20 applied should you require a copy of a statement or require the statements to be posted to you each month. A copy of all fees and charges can be located on our website.

When creating a go via road pass, the pass is valid for a set period of travel. Our customer service team can not confirm the amount payable until the pass has expired, as they will not be aware of the forthcoming travel, in addition if the vehicle has travelled on a foreign road, i.e. the Clem 7 Tunnel or Go Between Bridge, the tolls can take up to 4 days to be transferred to the pass. Payments for a go via road pass are debited from the nominated credit card 7 days after the first date of travel and then every 7 days until the pass expires. Should you prefer to know the amount payment prior to travel, a retail pass, available from over 660 retail outlets may suit your needs.

Your go via account, [\*\*\*001] was opened, online, on the 03.05.2012. The outstanding travel for loan vehicle [Licence Plate Number (LPN)] was all incurred prior to this date (27.04.2012 – 01.05.2012). Whilst I accept you may have contacted us to seek advice on how to pay your tolls, I believe that a miscommunication has occurred. As your account was not valid at this time, it was not possible to add the loan vehicle to an account that was not created. I suggest that the operator's intention was to advise that we can add the loan vehicle to an account, however as we were not aware of when you created your account we were not able to add the vehicle to the account.

When a vehicle passes the toll point without a valid payment arrangement to travel on the road, an image of that vehicle is taken for the purpose of toll recovery. Due to privacy legislation in Queensland, Queensland Motorways do not have ownership details. Vehicle details are forwarded to Queensland

*Transport who add the ownership details for Queensland vehicles, or forward to the relevant agency for Interstate vehicles. An invoice is then issued to the registered owner of the vehicle, in this instance the motor vehicle dealer. The owner has then completed a statutory declaration, nominating you as the driver of the vehicle.*

*As you had outstanding tolls invoices have been issued to you, each attracting a \$21.32 administration fee. This fee covers the costs of issuing the invoices. These are legitimate fees and I regret therefore that I am unable to waive them all. A total of 17 Demand Notices has been issued to you, as a gesture of good will I have waived 11 notices. There is currently an outstanding balance of \$175.28 for vehicle [LPN] in your name.*

*I understand that this may not be the response you were hoping for, however hope that I have been able to address your concerns.”*

4 That same day, Mr L emailed QML in the following terms:

*“your response is unacceptable to me.*

*Firstly I would like to address the issue of 17 separate administration fees for one account of invoices all within 5 days.*

*How can any business charge an administration fee for each and every invoice generated?*

*\$350 for 17 invoices over 5 days? How is that a legitimate charge for 17 administration fees for one single account.*

*\$350 to hit print from one single account for 17 pieces of white paper. Or \$20 per piece of black and white paper, yeah that sound legitimate.*

*Its a form of pilfering from unaware consumers.*

*Even when a lawyer issues a demand notice they don't apply an administration fee for each and every outstanding invoice. There is an amount outstanding and that gets a collection notice fee with it. Legitimate, really?*

*Fair Trading know it's unfair and even the Ombudsman knows its unfair, but they wont act. Instead it will just fester within the community and people will continue to loose respect for our system, and those that are entrusted to protect us from this sort of exploitation. Its bad for our community and even robbing people like this has an effect on the economy.*

*Then the issue that these charges should not have come about in any case. Your staff made a promise. From my phone records I have a call to Go Via at 14.24 on the 29th April last lasted 23 minutes. It was the call that I was told these toll charges would be attributed to my Go Via account once it had been established.*

*Your phone recordings will prove this, and I would say you have a recording of the call.*

*I got through quickly because I always hit the "new account" number. It always puts me straight to an operator. I guess if its not new business they can wait up to 30 minutes in the hope they go to the website instead.*

*Just because other Toll companies hide their pricing as well doesn't mean its right. It's deceptive conduct, and there is no true disclosure of the sale price. The point of sale is the approach to the toll point, that is where contract of sale is made. And Go Via hide the price because they know people will seek alternative supply.*

*Imagine going into KMart and being told sorry all our prices are posted on the web, we will tell you the price after you have taken the product out of the store.*

*And if you don't agree with the price or our terms after you take the product bad luck.*

*So when did I ever agree to the terms and conditions of Go Via? The word Toll appeared above my head travelling at 100klm per hour. I had safety to consider.*

*No you haven't been able to address my concerns. your part of a system that works by deceptive conduct, pilfering and exploitation. You represent a company that preys on vulnerabilities of uninformed consumers.*

*And even worse is that the people whom we pay and entrust to protect us fail in their responsibilities.*

*17 demand fees or 11 demand fees they are all wrong. At the very most there should only be one demand fee.*

*At least I can hold my head high in knowing I do good for the community and I have never taken money from anybody via a dishonest or deceptive way.*

*[Mr L]*

*Ohh by the way, the little wipe you send out to everybody and charge them \$1.00 for. That's called unsolicited sales, and it's illegal."*

5 On 12 June 2012 QML responded to Mr L as follows:

*"Thank you for your reply.*

*Queensland Motorways do not record calls, I am unable to confirm what was said when you contact us on the 29.04.2012. I reiterate that it is impossible to add a vehicle to an account that has not yet been created.*

*Further I confirm you have not been charged for the clip that has been sent, the "1" on the letter refers to the quantity, not the cost.*

*Customers are deemed to agree to the terms and conditions when using the toll road. Motorists have the option to exit the toll road should they choose not to use it, there is signage to indicate "last exit before toll"."*

6 Mr L replied to QML later that same day:

*“attached<sup>2</sup> is an honest tolling system.*

*For the wipe I will send you the invoices from all my family and friends charged \$1.00 for wipes they never ordered or wanted. You can buy those little wipes from a pharmacy pack of 100 for \$5.00.*

*No problem Ill start a facebook site with all these photos and Ill gather support and make public your comments and the non comments of the Ombudsman.*

*Shameful disregard for Fair Trading.*

*It needs to go to court and be a public hearing with media profiling the case.”*

7 On 13 June 2012 QML provided the following information to Mr L:

*“I confirm again that you have **not** been charged for the clip and wipe – they are issued **free** to our customer.”*

8 Following this, QML emailed the TCO:

*“We don’t charge for the wipes or clips. The 1 that he is reading as \$1.00 is the quantity of clips/wipes issued, as outlined in [Name’s] last email.”*

9 On 14 June 2012 the TCO emailed Mr L as follows:

*“I refer to previous correspondence in this matter. Queensland Motorways has now responded to me as follows:*

*“We don’t charge for the wipes or clips. The 1 that he is reading as \$1.00 is the quantity of clips/wipes issued, as outlined in [Name’s] last email.”*

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

*Pending a TCO Decision it is recommended that the toll road operator customers regularise their accounts to prevent any further loss accumulating in the form of additional fees. Any such payment made to regularise an account will be refunded in a TCO Decision favourable to the customer.”*

10 Mr L responded to the TCO that same day with the following:

*“I have the receipts to show that the alcohol wipes are being sent to customers unsolicited and being charged \$1.00.*

*I’am currently in New Zealand on business for the next two weeks so I cannot get to those receipts right now. I’m not making the story up, it’s true and shocked me.*

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<sup>2</sup> Attachment A

*But more than that, the tolling people lied to me about the fees. I have no reason to avoid toll charges, my company pay for them. But they agreed to direct the fees of the hire car to my toll account.  
And in any case tell me how it can be justified that 17 separate demands notices are given for one account over 5 days.*

*I have read the Profit and Loss statement (report to shareholders 2010) for Qld Motorways and it makes very clear the positive effects of raising revenue by implementing demand notices fees to those who don't pay within 3 days. Now if this was a true cost to Qld Motorways (as they explain to the community) there would be no extra revenue raised from demand notices.*

*I will be interested to hear the ombudsman justification for all these matters."*

**11** The TCO advised Mr L on 20 June 2012 as follows:

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

*I will withhold my Decision pending your return from New Zealand and the provision of evidence in relation to the wipes."*

**12** On 20 June 2012 Go Via provided copy of a generic invoice to the TCO and advised that the "1.00" quoted denotes the quantity of car wipes supplied rather than the cost of same.

**13** Mr L responded to the TCO on 26 June 2012 in the following terms:

*"I have arrived back from New Zealand.  
All correspondence regarding this issue held on my Gmail account is gone. I don't know how, but it has.  
My partner who was charged the \$1.00 for the wipe cannot locate the invoice, but requested the March statement in writing from Go Via at the charge of \$3.42. Instead Go Via sent her the April Statement.  
We have requested again the March Statement without charge, but Go Via has not communicated back to us yet. That was 2 days ago.*

*I would appreciate it if you could forward me the correspondence I have previously sent you.*

**14** On 27 June 2012, as requested, the TCO forwarded all correspondence on file to Mr L under cover of email:

*"As requested in your email below, attached is all correspondence on file.*

*Your file will be placed on hold awaiting your further communication and provision of the relevant evidence."*

15 On 5 July 2012 Mr L advised the TCO as follows:

*"I cant find the wipe invoice and Go Via are not cooperating with our statement request.*

*As with most of the community i have little confidence in your department as with the ACCC anyway. Nothing will change. It's one law for you guys and another law for us*

*We all know what is happening is wrong*

*Only this morning i spoke to some young people all owing money in the hundreds to tolling company*

*Companies who charge them months after the event even when they think they have paid*

*How can they tell who is who on the toll*

*There is no pricing declaration, no company info who to pay*

*Apparently there are 3 companies*

*Resentment will just grow in the community and respect will be lost for those quasi departments that are paid by us to protect us."*

16 The TCO emailed Mr L on 16 August 2012 in the following terms:

*"Thank you for your email of 5 July 2012. You have raised a number of issues to which it is necessary to respond.*

*Firstly, the TCO is an independent body that seeks to determine disputes between toll road operators and its customers/toll road users free of charge in a transparent manner.*

*The TCO is not a government department and it makes decisions in accordance with law but can do what is fair in the circumstances. Its decisions are not binding on the customers and they can seek redress by litigation if they are not satisfied with a decision.*

*I have previously indicated that I will provide a written decision and I will now do so on the evidence before me."*

## **Decision**

17 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.

- 18** 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 legislation such as the Melbourne CityLink Act 1995 can be accessed through Government websites.
- 19** The TCO is not a judicial body and does not have punitive powers. When making a decision it 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.
- 20** Looking at Mr L's complaint, it is apparent that he is not satisfied with the Go Via tolling system as it currently operates. He has complained that:
- there is no price at the tolling points that are the points of sale;
  - tax invoices are only issued on the 1<sup>st</sup> of each month and fees for their supply may be charged;
  - he could not be advised how much would be debited from his credit card when using a Go Via road pass
  - a loan vehicle he was driving whilst awaiting the delivery of his regular vehicle was not allocated to a new Go Via tag and, as a consequence, he incurred administration fees in respect of unpaid tolls;
  - the charging of the number of administration fees for unpaid tolls was excessive; and
  - he was charged by Go Via for unsolicited car wipes.
- 21** Go Via responded to Mr L's complaint in some detail, as outlined in the body of this Determination, but Mr L was largely dissatisfied with the response.
- 22** Despite the fact that Mr L is not satisfied with Go Via's method of operation of its toll road system, it was an updated process that replaced the system that had been operating on the Queensland Motorways road network until 1 July 2010. This coincided with the change in toll prices, fees and charges on the road network and new vehicle classes. Such changes were made in consultation with the Queensland Government and incorporated technological change.
- 23** The changes were accompanied by considerable publicity and new toll point signage on the Gateway and Logan Motorways, which directed motorists to go to the Go Via website for information on the new vehicle classes and toll prices or to call its contact centre on 13 33 31.
- 24** It is recognised that any change may not suit all customers but Go Via's signage and system was consistent with the changing methods of toll collection throughout Australia and internationally. I am satisfied that there was sufficient information in the form of initial publicity, signage directing customers to Go Via's online service or the contact centre and freely available brochures at Go Via's retail outlets, for customers to have an understanding of the Go Via fees and charges if they wanted to use the toll road.

- 25** I am further satisfied that the provision of Tax Invoice Statements monthly, on the 1<sup>st</sup> of each month, is a reasonable business practice taking into consideration that receipts can otherwise be generated for payments received for toll road usage.
- 26** Go Via has explained the Go Via road pass process. Go Via has in place debits occurring every seven days during the set period of the pass until the expiry date of the pass. This is a reasonable arrangement for customers.
- 27** It must be taken into account that toll fees for the Clem 7 Tunnel or the Go Between Bridge can take up to four days to be transferred to the pass. Moreover, there is an alternative pass available from Go Via's over 660 retail outlets that can be used to calculate the amount payable prior to travel.
- 28** Mr L's contention in respect to the charging of tolls for his motor vehicle dealer loan vehicle he was driving whilst awaiting his regular vehicle is not consistent with Go Via's system. It is necessary to have a valid account in place before a vehicle can be added to an account. If there was not such an account with details of the vehicle, it could not be recognised as a Go Via customer when it passed a toll point.
- 29** Go Via has explained the cost structure in respect of the administration fees payable for Mr L's vehicle incurring toll fees without having a valid account. I note that of the administration fees attached to the 17 Demand Notices, Go Via has waived 11 notices, leaving an outstanding balance owing by Mr L of \$175.28. I believe that the action taken by Go Via was fair in the circumstances.

### **Determination**

- 30** I do not uphold Mr L's complaint and recommend that he makes the payment to Go Via.



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

**Dated: 29 August 2012**

ATTACHMENT A



