

DECISION

Background

- 1 The complainant, Mr M, first made a complaint to the Tolling Customer Ombudsman (TCO) on 2 January 2013, as follows:¹

"The Nature of this complaint:** Go Via have charge my account for a vehicle that was sold by me in Sep 2009 and I have Notified them of the sell in Sep 2009 (when changed that vehicle [955] with the new vehickel I purchased [906***].)*

On December 14 this year, I have noticed that they still charge me for the tolls my sold vehicle is performing!

*I ask that Go Via will pay back to my credit card ALL the charges they charged to my account regarding vehicle [955***] from September 2009 to today.*

The Bellow correspondence was sent by email to Go Via.

On Top of the written complaint bellow, I have called the operators at Go-Via about 5-6 more times on different occasions in the past 3 weeks. In many of these calls, the operator put me on hold and then the dropped out.

As of today no resolution/solution been reached.

I therefore asking for your intervenence in this matter.

- 2 The complaint was acknowledged by the TCO on 3 January 2013 and forwarded to Queensland Motorways Ltd (QML) for response.
- 3 QML responded directly to Mr M on 4 January 2013 as follows:

"Thank you for your email, forwarded to Queensland Motorways from the Tolling Customer Ombudsman.

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

Due to the period of time that has passed since your initial contact in 2009 I will need to take some time to retrieve any archive records. Once this has been provided to me I will respond at first opportunity."

4 To which Mr M responded:

"Thank you for your reply (why do I need the Obdusman in order to get one from you ?)

Please make sure to retrieve from your archive the telephone conversations recordings as well as email correspondences.

Looking forward to hear back from you."

5 On 8 January 2013, the following exchange of correspondence took place between QML and Mr M, copied to the TCO. QML to Mr M:

"Further to the below I have now completed my investigations and found:

- Your email below dated the 10th of September 2009 did not include specific instructions to remove [955***] or add [906***].*
- The email only states that you required a replacement windscreen clip for your tag and does not include any other information requesting to update your account.*
- Queensland Motorways in our response to you on the 30th of September 2009 was confirming that this was completed according to your request.*
- Your email dated the 10th of September 2009 advised that "following my conversation with your customer support"; however we do not have records of phone contact from you prior to the 10th of September 2009*
- On the 24th of September 2009 you accessed your account online and added your new vehicle [906***], which would indicate that the vehicle registration [955***] is also listed and was not removed*
- All our access to your go via account is logged and it was accessed by a representative on the same day 24th of September 2009 prompted by a phone conversation from yourself. The vehicle was backdated to the 10th of September 2009 as you requested. It can be assumed that the vehicle did not have the correct start dates when it was added online and required a manual over ride.*
- A clip was also sent in this conversation.*
- We do not have records specifically requesting that [955***] be removed from your account.*

- The account was accessed online in 2011 and 2012 prior to the discovery and removal of [955***] on the 14th of December 2012, no request was sent to Queensland Motorways to remove this vehicle from your account
- Monthly statements have been issued to you the last 4 years with trips made by [955***] however no request was made to Queensland Motorways to remove the vehicle from your account

As such under the terms and conditions it is found that Queensland Motorways have acted strictly according to your explicit instructions to charge any tolls made by the vehicle registration [955***] and the associated tags assigned to your account, as per your original request when the account was opened 09.07.2009.

Requesting a refund amounts to holding Queensland Motorways liable for following your instructions, a request I regret I am not able to oblige."

6 Mr M to QML:

"Please attach the clip/ recording of my conversation with QLD motorways on the 24/9/2009 as well as a photocopy of the email/s you received from me.

Checking with QLD transport will confirm that vehicle [955***] was sold by me in sep 2009."

7 QML to Mr M:

"We do not retain recorded telephone conversations and I refer solely to the email you yourself has provided.

I appreciate that you sold the vehicle, however this is separate from your **go via** account, as we do not have access to the records of the Department of Transport and Main Roads due to privacy legislation. Queensland Motorways is a private corporation and all your details will need to be updated with us directly."

8 Mr M to QML:

"Thank you for your emails.

- a) I do **insist** to receive the recording of my conversation/s with your representative/s during September 2009. These phone calls will defiantly show the truth on whether I have asked to remove [955***] from my account. I am quite sure that you must, by law, to retain recording of conversations with customers for 7 years.
- b) As you are aware, all the Transactions related to Vehicle [955***] have started after 23/11/2012, therefore your claims

that I have looked into my account during 2011 and 2012 are irrelevant. As I have only could have noticed it after your November 2012 statement was sent to me !

c) My email states:

"Following my conversation with your customer support that I Have bought a new car and was not able to remove the windshield holder of the **GoVia tag from the car I sold.**"

That email (sent late at night when your offices were closed) sets the bellow issues very clear:

1,my instructions to replace car [906***] with [955***] were given on the phone

2. it is clear that I have called your office that morning. My instructions to remove vehicle [955***] were given on the phone. At the time of sending this email I presumed that my earlier phone directions were followed (i.e. to remove [955***]).

3.. That email was only sent to ask for a new tag clip to be posted

4.from that email it is clear that I have sold my car [955***], and every reasonable person would suspect that this car supposed to be removed from the account.

Waiting to receive your recording"

9 QML to Mr M:

"I note your insistence however Queensland Motorways are not required to record phone calls, therefore this recording you require does not exist to verify your claims.

If I may also please question why you left the registration on your account, though you accessed it online and added a new vehicle on the 24th of September 2009?

I refer to your point below:

b) As you are aware, all the Transactions related to Vehicle [955***] have started after 23/11/2012, therefore your claims that I have looked into my account during 2011 and 2012 are irrelevant. As I have only could have noticed it after your November 2012 statement was sent to me !

You may not be aware the vehicle's trips were also charged to your account prior to 23/11/2012 in July 2010, November 2010, December 2010, as well as January, February , March, April, May, and June of 2011. I have attached

statements of these months, showing trips from [955***] for your perusal. I'm unsure how they were only noticed in November 2012.

I also note your email states that "following my conversation with your customer support"; the email (10.09.2009) predates your conversation with our representative (24.09.2009) as our records indicate. It would be unreasonable for me to request your records of this conversation based on the time that has since passed, however I welcome any correspondence records you may have in support of this."

10 On 9 January 2013 Mr M emailed QML and the TCO in the following terms:

"Hello [Name][,

1. No, I was not aware of previous trips related to 955***]. But looking at the statements you have sent, these statements represents 1-2 trips per month. While since 23/11/12 to 14/12/12 there were over 14 trips that summed up over \$45, which debited my credit card by you and made me investigate that matter!

2. I have made 2 phone calls to your office: 1. 10/9/2009 – to ask for replacing [955***] and 2. 24/9/2009 to follow up on my request to send the tag clip.

you are now stating that only one phone call was made and the 10/9/2009 email is "predates your conversation with our representative (24.09.2009 "just because you can't find such conversation record in your system- doesn't mean it didn't exist. You can't even find in your archive that email I sent on 10/9/2009, although your representative reply to it !! maybe your system have some "holes" in it??? !!! After all your people are only people and they make mistakes like anyone else entering data??. Maybe the system was offline when I called and the representative took the notes hoping to enter them later...?"

I don't know why there is no record in your system, but to be honest it is your responsibility not mine. I just suffer from the fact that "in your records you can't"

3. Even if your claim that no conversation was made on the 10/9/2009 (Which I reject !). The email I have sent you on 10/9/2009 was sufficient in order that your representative will understand that one car was purchased and one was sold. That representative should have verified with me the nature of that email.

4. Internet/Electricity/Telephone/etc. companies, they all record conversations with customers. Specifically for occasions like this one. I find it odd that QLD Motorways are exempt from recording customers instruction. Without recording of conversations, how can you verify complaints of customers? Based on what your employees "understood" from the conversation and their notes??? !!!

5. Will a QLD Transport letter stating that my car was sold on September 2009 will be enough for you to refund the money you have wrongfully charged me? It seems as you doubt that.

To The Tolling Ombudsman:

Obviously, there will be no agreed solutions between QLD Motorways and myself on this matter. These endless emails will not come to an agreement.

The facts and arguments, are all outlined bellow in that long email threads.

*I therefore asking you to **decide** on this matter."*

11 On 10 January 2013 QML provided the following summary of the matter:

"1) [Mr M] is under impression that all phone conversations are recorded. I cannot change his mind on the matter, that this information has never been recorded.

2) This is our interaction record with this account:

Date	Type	Description	Transaction No.	Status	Category	Created By
08.01.2013	Interaction		25122460	Open	Business Activity	[Name of N]
08.01.2013	Interaction		25088717	Open	Business Activity	[Name of C]
08.01.2013	Interaction		25096585	Open	Business Activity	[Name of N]
08.01.2013	Interaction		25073921	Open	Business Activity	[Name of N]
06.01.2013	Interaction	Temp PIN consumed by successful login	24872689	Completed	Business Activity	PIPROXYUSER
06.01.2013	Interaction	Updated web user detail via SSP	24872668	Completed	Business Activity	PIPROXYUSER
06.01.2013	Interaction	Temp PIN consumed by successful login	24872658	Completed	Business Activity	PIPROXYUSER
06.01.2013	Interaction	Temporary PIN sent to [Mr M's email address]	24872634	Open	Business Activity	PIPROXYUSER
06.01.2013	Interaction	TIS MTH Notification Dec Day 3	24833031	Completed	Business Activity	[Name of D]
03.01.2013	Interaction		24599343	Open	Business Activity	[Name of C]
02.01.2013	Interaction	Was explaining transactions on [Mr M's] acc	24574137	In Process	Business Activity	[Name of K]
02.01.2013	Interaction	[Mr M] called	24573348	In Process	Business Activity	[Name of L]
02.01.2013	Interaction	Customer could not be authenticated	24573056	Completed	Business Activity	PIPROXYUSER
23.12.2012	Interaction	sw [Mr M] re lpn 781sip	24447775	In Process	Business Activity	[Name of D]
19.12.2012	Interaction		24386188	Open	Business Activity	[Name of O]
14.12.2012	Interaction	Spk to:[Mr M] [customer number] / Adv of P	24306457	In Process	Business Activity	[Name of H]
14.12.2012	Interaction	spoke to [Mr M] - advised to email issues	24306216	In Process	Business Activity	[Name of H]
14.12.2012	Interaction		24304171	Open	Business Activity	[Name of S]
14.12.2012	Interaction	[Mr M] rang re: tolls	24304198	Planned In Process	Business Activity	[Name of M]
14.12.2012	Interaction	Updated web user detail via SSP	24303813	Completed	Business Activity	PIPROXYUSER
14.12.2012	Interaction	Temp PIN consumed by successful login	24303808	Completed	Business Activity	PIPROXYUSER
14.12.2012	Interaction	Temporary PIN sent to [Mr M email address]	24303778	Open	Business Activity	PIPROXYUSER
07.12.2012	Interaction	TIS MTH Notification Nov Day 3	23782144	Completed	Business Activity	[Name of D]
06.11.2012	Interaction	TIS MTH Notification Oct Day 2	22690367	Completed	Business Activity	[Name of D]
10.10.2012	Interaction	TIS MTH Notification Sept Day 8	22006040	Completed	Business Activity	[Name of J]
04.09.2012	Interaction	September TIS Campaign	20438166	Completed	Business Activity	[Name of D]
11.08.2012	Interaction	August TIS Campaign	19960360	Completed	Business Activity	[Name of D]

09.07.2012	Interaction	July TIS Campaign	18780545	Completed	Business Activity	[Name of D]
05.06.2012	Interaction	June TIS Day 2 Campaign	17422562	Completed	Business Activity	[Name of D]
06.05.2012	Interaction	May TIS Day 4 Campaign	16716861	Completed	Business Activity	[Name of D]
09.04.2012	Interaction	April TIS Mth Day 5 Campaign	15705911	Completed	Business Activity	[Name of D]
08.03.2012	Interaction	March TIS Day 4B Campaign	14806512	Completed	Business Activity	[Name of D]
08.02.2012	Interaction	February TIS Day 5B Campaign	14109263	Completed	Business Activity	[Name of D]
06.01.2012	Interaction	January TIS MTH Day 4B Campaign	12741563	Completed	Business Activity	[Name of D]
08.12.2011	Interaction	Temp PIN consumed by successful login	11958255	Completed	Business Activity	PIPROXYUSER
07.12.2011	Interaction	December TIS Day 3A Campaign	11823161	Completed	Business Activity	[Name of D]
06.11.2011	Interaction	Updated web user detail via SSP	11010358	Completed	Business Activity	PIPROXYUSER
06.11.2011	Interaction	Temp PIN consumed by successful login	11010353	Completed	Business Activity	PIPROXYUSER
06.11.2011	Interaction	Temporary PIN sent to [Mr M email address]	10997431	Open	Business Activity	PIPROXYUSER
06.11.2011	Interaction	Customer could not be authenticated	10996803	Completed	Business Activity	PIPROXYUSER
06.11.2011	Interaction	November TIS Day 3B Campaign	10989685	Completed	Business Activity	[Name of D]
08.10.2011	Interaction	TIS Month End Sept Segment 2	9956781	Completed	Business Activity	[Name of J]
10.09.2011	Interaction	TIS September Day 6	9068852	Completed	Business Activity	[Name of J]
30.09.2009	Interaction		1606409	Open	Business Activity	[Name of P]
25.09.2009	Various	Sales Order for Bus. Agrmt010047	5249601	Completed Distributed	Sales	WF-BATCH
24.09.2009	Interaction		1562208	Open	Business Activity	[Name of DD]
24.09.2009	Interaction		1562161	Open	Business Activity	[Name of DD]
24.09.2009	Interaction	Updated acc detail via SSP	1562058	Completed	Business Activity	PIPROXYUSER
09.07.2009	Various	Sales Order for Bus. Agrmt010047	5032765	Completed Distributed	Sales	WF-BATCH
09.07.2009	Interaction	Updated acc detail via SSP	794666	Completed	Business Activity	PIPROXYUSER
09.07.2009		Registered contract for[customer number]	100475485	In Process	Service Contract	PIPROXYUSER

The account was opened on the 9th of July 2009.

No access was made to this account by any of our representatives on the 10th of September 2009. We cannot access an account without leaving a "footprint".

Only an email was sent to Queensland Motorways on the 10.09.2009 as proven by [Mr M]. Due to backlog, the email was not responded until the 30th of September 2009, which [Mr M] has also included. This matches with our records ([Name of P], 30.09.2009)

*I would also point that [Mr M's] email as below has different fonts for "following my conversation with your customer support that" before his capital "Have" which is consistent with an edited email, however as our archive system only completed in 2011 I do not have the original to prove my theory. I will also state for the record that this request is vague on the matter of the vehicle updates; no vehicle registrations were discussed, and [Mr M] is relying on us to assume that we are to know to delete [955***] and enter a new registration that was not provided to us.*

3. *Even if your claim that no conversation was made on the 10/9/2009 (Which I reject !). The email I have sent you on 10/9/2009 was sufficient in order that your representative will understand that one car was purchased and one was sold. That representative should have verified with me the nature of that email."*

Original Text

From: [REDACTED]
To: enquiries@govia.com.au
CC:
Sent: 10/09/09 23:15:09
Subject: Customer [REDACTED]

Hi,

Following my conversation with your customer support that I have bought a new car and was not able to remove the windshield holder of the GoVia tag from the car I sold.

Could you please send me a new one to put on the new car.

*The account was accessed online on the 24th of September 2009 (PIPROXYUSER, 24.09.2009). The vehicle [906***] was added to start the 24th of September 2009.*

*[955***] was left on the account.*

[Mr M] did not respond to my question as to why it was not deleted in his update access.

On the same day he contacted our contact centre and the account was accessed by [Name of DD], 24.09.2009.

Business Agreement Item: 30, Vehicle

✓ Back

General		Dates	
Product	VEH Vehicle	Vehicle Start	10/09/2009 10:57
Status	Ended	End	14/12/2012 16:03
Vehicle Fields			
LPN	906	Class	2
State	Queensland	No of axles	02
Make	TOYOTA	GVM	02730
Model	LANDCRUISER	Metallic Windshield	
Body	4D Wagon	Special Consideration	
Fleet Number		Video Fee Exempt	<input type="checkbox"/>
		Purpose of Use	

► Cancellation

▼ Change History

Actions	New Value	Old Value	Changed By	Changed On
No of axles Changed	02	00	[REDACTED]	02/01/2013
GVM Changed	02730		[REDACTED]	02/01/2013
System Status Entered	Completed		[REDACTED]	14/12/2012
System Status Was Deleted		Released	[REDACTED]	14/12/2012
User Status Entered	Ended		[REDACTED]	14/12/2012
User Status Was Deleted		Valid	[REDACTED]	14/12/2012
Contract End Date Changed	FR 14/12/2012 16:03 AUSQD	FR 31/12/9999 23:59 AUSQD	[REDACTED]	14/12/2012
Contract Start Date Changed	TH 10/09/2009 10:57 AUSQD	FR 11/09/2009 10:57 AUSQD	DD [REDACTED]	24/09/2009
Contract Start Date Changed	FR 11/09/2009 10:57 AUSQD	TH 24/09/2009 10:57 AUSQD	DD [REDACTED]	24/09/2009
System Status Entered	Released		PIPROXYUSER PIPROXY	24/09/2009
User Status Entered	Valid		PIPROXYUSER PIPROXY	24/09/2009
Entered			PIPROXYUSER PIPROXY	24/09/2009

The history of [906***] shows that it was added PIPROXYUSER 24.09.2009 and the start date of the vehicle was changed by [Name of DD] from 24.09.2009 10:57 to 11.09.2009 10:57.

I do not believe that [955***] was discussed in this conversation as it concentrated on the backdate of this vehicle and the issue of a clip.

Returning to the interaction list Tax Invoice Statements were issued for this account following September 2009 and PIPROXYUSER accessed the account online since. [955***] was still left on the account. Given the trips occurred over 2010/2011 there is a significant delay in the discovery of the matter.

1. No, I was not aware of previous trips related to [955***]. But looking at the statements you have sent, these statements

represents 1-2 trips per month. While since 23/11/12 to 14/12/12 there were over 14 trips that summed up over \$45, which debited my credit card by you and made me investigate that matter!

I am now inclined by the above statement that if the trips for this vehicle continued to trickle in on sporadic occasions that it would be acceptable for [Mr M] not to check his statements, however as the debits were suddenly frequent, Queensland Motorways are liable for the trips.

I have advised [Mr M] that we are not associated with DTMR and cannot access their records to check registered owner's details. Providing me a certificate does not deviate from the issue that [Mr M] is liable for those trips under the terms and conditions.

As [Mr M] has now requested that we no longer continue to discuss this matter between us I await for your advice and decision in the matter."

12 The TCO provided this summary to Mr M on 11 January 2013 and indicated that a TCO Decision will be provided on the issues in dispute.

13 Mr M responded to the TCO as follows:

- "1. I resent and very angry of QLD motorways to imply that I am fabricating emails !!!*
- 2. At the time of writing the email to QLD Motorways, I had only ONE vehicle registered under that account, [955***]. It doesn't take a genius to understand that if I am saying I have sold a vehicle – it would be that one. I do think that this email on its own should have raised questions by QLD Motorways and they should have confirmed it with me on their rely.*
- 3. [Mr. N], on his first email to me stated that he is waiting for my archive 2009 data to be handed to him. Now he is saying they didn't have any archiving since 2011.*
- 4. I do insist that vehicle [955***] was instructed to be deleted from my account on a telephone conversation in September 2009.*
- 5. I can ask the QLD Transport to provide me with proof of ownership change of vehicle [955***], if it can assist you to determined this issue easier. As it involves taking lots of my time, I will do so if you need this evidence from me.*
I have offered to do so to [Mr. N] (who keeps saying they Don't have access to these records) but he said I am still liable for payment done with this car even if it was sold...
- 6. As to his claims that I Did not notice one or two monthly transactions for few months during 2010/2011:*
6.1 QLD MOTORWAYS Do NOT Send the invoice transaction List by email, they only send notification that the transaction list is available online. I almost never checked it online as I kept

forgetting my PIN. Maybe it is time that online Invoices and statements will be sent as attachments to the emails.

6.2 You can see from [Mr. N's] interaction lists that I have ONLY entered my online account FOUR times, and mainly to obtain new login PIN code (which I kept forgetting)

6.3 QLD Motorways Transaction form is set in 3 pages, and only at the bottom page there is a list of the detailed transactions. which is very hard to notice.

7. I am under the impression that it is very convenient for QLD Motorways NOT to record conversations with their clients. That way their own people errors can be blamed on the customer

8. It is very important that you will understand, that this struggle with QLD Motorways is not just about few dollars (which are negligent amount compared with the time spent on this matter).

It is a principal matter that large enterprises need to take responsibility of their own mistakes."

- 14 On 15 January 2013 the TCO acknowledged receipt and advised Mr M and QML that its contents will be taken into account in the Decision. Following consideration of the facts of this matter I have made the following decision.

Decision

- 15 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.
- 16 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.
- 17 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.
- 18 The dispute centres on Mr M's contention that he removed his vehicle [955***] from his go via toll account when he purchased vehicle [906***] in September 2009. The vehicle was not removed from his account and consequently tolls were charged to the account until December 2012 for travel on toll roads. The tolls were charged to Mr M's credit card and he maintains that he did not realise that they were charged until December 2012.

- 19 This is a matter in which the versions and sequence of events is contested by the parties. I have documentary evidence from Mr M and QML in respect of their positions. There is no evidence of recorded telephone conversations.
- 20 From my knowledge and experience, I am satisfied that QML did not record telephone conversations between its operators and customers at the relevant time in 2009. It is my understanding that this situation may change in the future but I accept QML's assurance that there is no record of conversations between Mr M and QML. QML has provided an alternative history of transactions.
- 21 QML has indicated that it did not have any record of vehicle [955***] being removed from Mr M's go via account in September 2009 or subsequently. QML asserts that it has a history of all interactions between QML and Mr M and that every interaction with a customer like Mr M leaves a footprint on its system. A copy of this history has been supplied to me. There was no record on the system of Mr M removing the vehicle [955***] from the interactions on his go via account.
- 22 Mr M has relied on an email of 10 September 2009 in support of his position. Mr M's email of 10 September 2009 is quoted below:

"Original Text

From: [Mr M's email address]
To: enquiries@govia.com.au
CC:
Sent: 10.09.09 23:15:09
Subject: Customer [number]

Hi,

Following my conversation with your customer support that I Have bought a new car and was not able to remove the windshield holder of the GoVia tag from the car I sold.

Could you please send me a new one to put on the new car.

Thank you

[Name – mobile number]

[Address],

Customer Number: [number]"

- 23 QML has responded to this assertion as follows:

- *"Your email below dated the 10th of September 2009 did not include specific instructions to remove [955***] or add [906***]."*

- *The email only states that you required a replacement windscreen clip for your tag and does not include any other information requesting to update your account.*
- *Queensland Motorways in our response to you on the 30th of September 2009 was confirming that this was completed according to your request.*
- *Your email dated the 10th of September 2009 advised that "following my conversation with your customer support"; however we do not have records of phone contact from you prior to the 10th of September 2009*
- *On the 24th of September 2009 you accessed your account online and added your new vehicle [906***], which would indicate that the vehicle registration [955***] is also listed and was not removed*
- ***All our access to your go via account is logged and it was accessed by a representative on the same day 24th of September 2009 prompted by a phone conversation from yourself. The vehicle was backdated to the 10th of September 2009 as you requested. It can be assumed that the vehicle did not have the correct start dates when it was added online and required a manual over ride.***
- ***A clip was also sent in this conversation.***
- *We do not have records specifically requesting that [955***] be removed from your account.*
- *The account was accessed online in 2011 and 2012 prior to the discovery and removal of [955***] on the 14th of December 2012, no request was sent to Queensland Motorways to remove this vehicle from your account*
- *Monthly statements have been issued to you the last 4 years with trips made by [955***] however no request was made to Queensland Motorways to remove the vehicle from your account"*

- 24** In the absence of agreement on the details of any telephone conversations, I have examined the best evidence available to me, which is documentation provided to me by QML and Mr M. This documentation includes a detailed history of the interactions with Mr M but it does not disclose any conversation in respect of the removal of the vehicle [955***] from his account. Further, the documentation provided by Mr M does not make any specific reference to the removal of the vehicle from the account.
- 25** I am satisfied that Mr M had disposed of the vehicle and had notified the Queensland motor vehicle registration authority of the disposal of the vehicle. However, this was a separate body from QML and the provision of information to it does not flow to QML.

- 26 It was the responsibility of Mr M to notify QML of the removal of vehicle [955***] under the arrangement for travel on the toll roads. He may have presumed in the telephone conversations that he had with QML at the relevant times that they had been advised to remove the vehicle. However, in the absence of documented evidence and taking into account QML's history of interactions, I cannot be satisfied that he advised QML to remove the vehicle from his go via account.
- 27 Mr M has argued that a reasonable person would, in the circumstances, have suspected from his email that the vehicle [955***] was to be removed from his account. This is not necessarily so as it was just as reasonable to assume that an additional vehicle was being added to the account based on the state of documented information before QML. It is not an uncommon occurrence to add additional vehicles to an account.
- 28 Further, QML monthly statements relating to toll road charges in respect to vehicle [955***] had been forwarded to Mr M between September 2009 and December 2012 and he had not contacted them before that date. Mr M has made comments that he only accessed his go via account irregularly, that the transactions were not easily noticed and that toll charges prior to November /December 2012 were small. However, I am satisfied the information was provided in a way and format that could be accessed by Mr M in his interactions with QML. He further had the opportunity to establish the fact his credit card was being debited with toll charges.
- 29 In all the circumstances, I do not find that QML is liable to refund the toll charges to Mr M. However, this decision must be a reminder that QML should improve its customer service division by training them to be more proactive in drawing inferences as well as in questioning their customers.

Michael Arnold
Tolling Customer Ombudsman

Dated: 8 March 2013