

## DECISION

### Background

- 1 The complainant, Miss BB, first made a complaint to the Tolling Customer Ombudsman (TCO) on 6 May 2014, as follows:<sup>1</sup>

"I was given a etag by go via some time early last year. When signing up for it, I had put \$25 credit onto the tag. They warned me that when the credit is low they would send out a text and a letter. They had taken all the correct information of my address and phone number. (Which i have checked again so this does not explain why the following has happened)

After some time, I still hadn't driven through many toll roads, and also forgotten what my first top up was. They had told me that when it is low it will beep 3 times, up until about 3 weeks ago it was still beeping once. therefor, with no notifications or the etag beeping more than once, I believed it was fine.

I came home half way through last month to find a pile of paper work, with photos of my car.

Go via, had sent me out fines for not paying toll. Before these notices, I didn't receive anything, not a text or a letter.

The fines that they had sent added up to over \$400.

I than called them the day after and they stated that my fines were actually over \$700 they just haven't sent those ones out yet. Now I understand paying for the tolls I did use of \$2.57, not the fee added on top of \$28.

I explained to them that my etag hadn't been beeping more than once, and they said

"It's not my problem that your etag is broken"

Even one of the photos that they sent me, doesn't even have a car in it.. let alone mine.

I talked to as many people as I could to even try and get on a payment plan, at that time I had received an email from them which clearly says to me that they just don't care. I told them about my current position and still no help was given and all these fines because they didn't notify me.

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

I am currently a casual worker, I earn \$100-\$200 a week, I do not let bill get this high ever. I pay everything on time. If I am to pay these fines, as I explained to go via, I WILL NOT

be able to feed myself, or cover my rent - leading to me being kicked out. or continue to have fuel for the days that I do work.

They have now told me that if I don't pay these fines by the 9th of May 2014 they will go up to \$150 which means over \$4000. I am in need of serious help. They have been completely rude to me, talking over me. Laughing at me and the situation that I am in, and offered no help at all.

I was told to go to you, for help. I really hope there is something you can do for me. Thanking you or taking the time to read this, and I look forward to hearing from you soon."

- 2 On 7 May 2014 the TCO acknowledged receipt of the complaint and forwarded same to Queensland Motorways (QML) for response.
- 3 QML responded directly to Miss BB, attaching copy of earlier email correspondence between Miss BB and QML, as follows:

"I confirm receipt of your email to the Tolling Customer Ombudsman (TCO).

Attached is our thread of correspondence for the TCO's consideration showing in depth information on the status of your **go via** account and notices.

I confirm that you have received a negative response based on the following facts;

- You hold a pre-paid **go via** account for your vehicle [4\*\*\*\*I] that was suspended due to lack of credit
  - As this is your responsibility to maintain the account with credit at all times, you accept any repercussions for failing to do so
- You advised that you were not aware of any issues with your account and did not receive notifications
  - We sent notifications to the mobile service [number] which is the mobile number you provided
  - As this is your responsibility to maintain correct contact details at all times, you accept any repercussions for failing to do so, including not receiving important messages about your account
  - You made one single payment of \$25.00 on the 10<sup>th</sup> of April 2013 which is not reasonable to sustain continuous trips on toll roads, hence the suspension
  - We cannot manipulate tags to beep once when there is no credit on the account, the tag was identified as "delinquent" (*as shown below*) which supports that it has been beeping 4 times for every toll point you have crossed since October 2013. Your claim that it beeped once goes against the system design and is not upheld.



Date	Time	Tolling Point	Lane	Tag ID	Tag Issuer	Tag Status
02/03/2014	14:43:39	GWY	02	[REDACTED] 672	QML - (201)	Delinquent
02/03/2014	14:56:29	KUR	02	[REDACTED] 672	QML - (201)	Delinquent
02/03/2014	15:06:45	HWD	04	[REDACTED] 672	QML - (201)	Delinquent
03/03/2014	07:43:57	HWD	03	[REDACTED] 672	QML - (201)	Delinquent
03/03/2014	07:56:45	LGN	03	[REDACTED] 672	QML - (201)	Delinquent
03/03/2014	09:22:48	LGN	04	[REDACTED] 672	QML - (201)	Delinquent
03/03/2014	09:35:24	HWD	04	[REDACTED] 672	QML - (201)	Delinquent
04/03/2014	09:04:17	HWD	03	[REDACTED] 672	QML - (201)	Delinquent
16/03/2014	00:08:37	LGN	04	[REDACTED] 672	QML - (201)	Delinquent
16/03/2014	00:20:57	HWD	04	[REDACTED] 672	QML - (201)	Delinquent
21/03/2014	14:42:44	LRI	14	[REDACTED] 672	QML - (201)	Delinquent
21/03/2014	14:54:21	HWD	04	[REDACTED] 672	QML - (201)	Delinquent
23/03/2014	20:20:17	HWD	03	[REDACTED] 672	QML - (201)	Delinquent
23/03/2014	21:28:52	HWD	04	[REDACTED] 672	QML - (201)	Delinquent

- We have sent the registered owner of [4\*\*\*\*] to date, 33 notices requesting for payment over the period of December 2013 to April 2014
  - All notices are sent to the address you nominate with the Department of Transport and Main Roads
  - Queensland Motorways bear no responsibility for non-receipt of toll notices as you should have firstly ensured that you do not incur a toll notice, and when you are eligible for a toll notice, consider it delivered to the address nominated by you
- State Tolling law and policy
  - A motorist is liable to pay a toll upon crossing the plaza and to show compliance to this law must obey the rule to pay your Notice of Demand before the due date
  - Providing you a payment plan will be direct contravention to this law as you will not meet the due date otherwise
  - You are not eligible to receive an extension of time to pay, nor a reduction as the toll notices were issued in accordance with the *Transport Infrastructure Act 1994 (Qld)*

I have previously included that while we appreciate your financial circumstances, the debt should not have been allowed to accrue over months, and the balance is a direct result of your actions. Providing you a negative response due to the above facts does not constitute bad customer service.

The TCO may now proceed to provide commentary based on the above, as our outcome is unchanged.

#### 4 Miss BB then notified the TCO:

"They have sent me an email stating that they are not going to change their minds on this.

Also saying that my etag was beeping 4 times, I have had others in my car as witnesses that it has only beeped once."

5 On 9 May 2014, the following correspondence ensued between the parties:

Miss BB to the TCO:

"Just wondering what happens now and if there is anymore you'd need from me?"

TCO to Miss BB:

"So I may review your complaint, please provide your comments to the points raised by Go Via in its email response to you of 7 May (attached)."

Miss BB to the TCO:

"I never wrote back to them about that email.

I do have people that have been in the car with me and have heard it only beep once. A number of people to stand by that.

That was my number up until a month ago and not once did I receive a text. I have a partner that can also state I never got any mail by them as they lived with me and she received toll notices.

I didn't once.

They are being ridiculous, I was not sent anything once. I would not be in this position if they did their job right.

As I said earlier. I am a casual worker/job seeker. I can not afford this, and if I had got a notice earlier I would have paid it. I pay everything else why would I let this get so high that it would ruin myself.

I am happy to be on a payment plan and receive a new etag that isn't broken.

They are saying now that there's no way it didn't beep once only yet when I spoke to the supervisor he said "it's not my fault it's broken"

For him to say that, he must have came past this before.. Other wise he would have said differently.

They said that they can't send me out the bills that add up to over \$700 and they don't need to. A photo they sent me doesn't even have my car in it. When discussed with a worker from go via he said that doesn't change anything. They can't even show anything out stating that they sent out these forms. Yet, I can come home to one big envelope with fines adding up to over \$400.

If I can receive these, why haven't I got any others?

Then they sent me out another last week stating another toll I went through that has added up to \$38... they have seemed to stuffed up somewhere along the lines. Sent out this ridiculous pile first and now making it look like they are doing there job by sending out one from March.

I am shocked of the way they have laughed at me. Talked over me. One even said I was being stupid. Yet they don't see that as "bad customer service" I work in a little store. And I know if someone came into my shop and I laughed at them, I would probably be fired. For Bad customer services. Let alone failing to do their job as far as notifying me that there is an issue with my account.



When I call up, it says my account is \$23 bellow balance, how is that even possible with the \$723 fine I have, even just the tolls add up to \$62?

They are being unfair and selfish and something needs to be done, yet they won't listen to me or even willing to help.

"I appreciate your financial situation"

Disgraceful liars.

I just can not believe some company we are being forced to use can turn around and treat their clients like this. I am honest and a hard worker. And that's why I know I should pay these fines.

The only issue is because it's not over \$1000 I am nobody to them.

If you need anything else from me feel free to call or email me and I will be happy to send a reply to get this mess fixed as soon as possible."

TCO to Miss BB, copied to QML:

"I acknowledge receipt of your email and confirm I will seek further comment on its contents from Go Via."

QML to the TCO:

"Myself and go via representatives have provided to [Ms BB] on more than one occasion in depth information relating to her suspended account and toll notice issued for her vehicle [4\*\*\*\*I] (QLD).

[Ms BB] continues to deny any responsibility for not ensuring that her account had sufficient credit and for travelling on toll roads without a valid account.

Instead, she continues to believe that somehow Queensland Motorways (QML) should be held responsible by requesting that we absorb all of our fees and charges for her actions of;

- travelling without a valid account
- providing her a tag that allegedly performs outside of system expectations
- allegations we have not attempted to notify her despite QML providing evidence of
  - a) Eight SMS notifications to the number she provided but did not update
  - b) Tag reads showing a "delinquent" signal of 4 beeps was issued to the driver
  - c) 45 notices to date to the address she provided to the Queensland Transport office

My investigations indicate that the outstanding balance is correct and continues to increase as [Ms BB] has refused payment despite our advice and warning that it would. The toll notice balance for [4\*\*\*\*I] (QLD) stands at \$983.25 to date.

I have no further comment to provide to [Ms BB], short of repeating myself, and seek your assistance in assessing the validation of [Ms BB's] complaint."

- 6 The TCO forwarded the above response for the information of Miss BB, to which she replied:

"Thank you for keeping me up to date.  
I don't understand why it's gone up more.

I understand that I should have checked and I learnt the hard way but it was there job to warn me. Which they failed to do so.

I am just stuck and I just can't get a grip on how they can do this.

I honestly hope you can help me.

- 7 On 13 May 2014 Miss BB emailed the TCO on two occasions as follows:

"just wondering what happens now?

and:

"sorry about the double messages,  
but I have just checked the mail to find another massive pile of papers with other fines they have not warned me about.  
This is ridiculous.  
What else can I do?"

- 8 On 16 May 2014 Miss BB emailed the TCO:

"I have not received anything back from you this week.  
Just wondering what's going on and if anything else is being done?"

- 9 The TCO notified Miss BB that he will prepare a written Decision as soon as possible.

## **Decision**

- 10 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.
- 11 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.

- 12 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.
- 13 Ms BB opened a pre-paid account for vehicle [4\*\*\*\*] in or about April 2013 and paid \$25 into the account. She then travelled on toll roads without making further payments, thus incurring tolls and administration fees.
- 14 Ms BB denies any responsibility for not ensuring that her account had sufficient credit and for travelling on toll roads without an active account. Go Via has outlined the basis of her responsibility and provided details of tolls and fees incurred.
- 15 Ms BB does have such responsibility and there is evidence that there were:
- eight SMS notifications to a telephone number she provided
  - tag reads showing a "delinquent" signal of four beeps were issued to her, and
  - 45 notices were sent to the address she provided to Queensland Transport.
- 16 Ms BB had advised she was not in a position to pay the outstanding tolls and administration fees. She was warned that a decision would be made and considerable time has been allowed to rectify her account with Go Via. There has been no rectification of the account and the amount now owing is \$1,002.86.

### **Determination**

- 17 I find that Ms BB is liable to pay the account of \$1,002.86 and should take immediate steps to make arrangements for payment.
- 18 I understand that a Penalty Infringement has been issued to her by the State Tolling Offence Unit. It is recommended that she addresses this matter with this Unit directly.

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

**Dated: 15 January 2015**