

TCO Review

1 March to 31 August 2018

**Michael Arnold
TCO Tolling Customer Ombudsman**

TOLLING CUSTOMER OMBUDSMAN REVIEW

1 March – 31 August 2018

Introduction

The TCO, as has been foreshadowed previously, is transitioning into a different corporate structure, the Specialist Complaints Service Limited (SCS), as part of an application process to becoming a member of ANZOA. This requires the TCO to be compliant with the 1997 National benchmarks of industry-based EDR schemes – Accessibility, Independence, Fairness, Accountability, Efficiency and Effectiveness.

The TCO considers that it has complied with these core national benchmarks, but changing regulatory requirements and attitudes in different States as to the resolution of complaints in respect to tolling operations has necessitated the establishment of a different structure. It is intended that SCS will have an independent chair with an equal number of industry and consumer representatives. It will appoint the Ombudsman and have oversight of the TCO's operations. Certain State regulatory bodies can sit on the SCS Board with observer status.

The TCO commenced operations in 2004 and has operated under a number of different banners or titles that catered for its expanding toll operator coverage in Victoria, New South Wales and Queensland following its inception.

The TCO is a voluntary (for consumers) industry dispute resolution system designed to currently assist the customers and toll road users of EastLink, E-way and M5 South-West Motorway (Interlink Roads), Linkt (formerly CityLink) – Victoria, Linkt (formerly Linkt Sydney) and Roam – New South Wales, and Linkt (formerly go via and Linkt Brisbane) – Queensland tolling businesses, free of cost. The TCO, as part of the SCS structure, will maintain such a service.

Jurisdiction

As currently applies, there will be limits on the jurisdiction of the TCO due to arrangements between the State Governments. The existing limitations are contained on the TCO website: www.tollingombudsman.com.au.

Basically it is still intended that the TCO does not trespass into Government policy issues or Departmental operations. For comparison sake, the terms of operation specifically provides:

“Where the TCO is unable to help

The TCO cannot:

- *consider any grievances related to infringement notices issued by authorities, even though the infringement may have happened on one of the toll roads covered by this scheme;*
- *consider the level of tolls or fees fixed by tolling operators in consultation with state governments;*
- *consider disputes about vehicle classifications;*
- *consider grievances in relation to Roam and Roam Express/Transurban Linkt that arose before 1 August 2006, go via that arose before 1 October 2011, or E-Way and M5 South-West Motorway that arose before 12 April 2016;*
- *make decisions that would put a tolling operator in breach of its Customer Service Agreement or its Concession Deeds with a state government; and*

- *make binding decisions that require tolling operators to pay monetary compensation in some instances.”*

The TCO does not have jurisdiction over the level of fees charged by toll operators fixed in consultation with the State Government.

The System

The TCO, in short, will continue to provide a low cost alternative dispute resolution system that allows the opportunity for resolution of tolling disputes without the stress of litigation or the need to access any Government services in the first instance. The toll operators will still fund the TCO service so that it is free of charge to customers.

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. As with similar Ombudsman schemes, prior to the TCO dealing with a complaint the customer must have:

- (a) first lodged a formal complaint with the relevant toll operator 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.

Complaints received with the authority of a customer referred from Members of Parliament, State Ombudsmen or Consumer Affairs agencies are processed in the same manner.

Independence

The hallmark of any alternative dispute resolution body must be its independence and impartiality. Safeguards must be put in place not only to guarantee that independence, but to provide confidence to those who bring a dispute to the body of that independence. This particularly applies to industry dispute resolution schemes where the decision-maker is remunerated by the industry.

Safeguarding can be done by, amongst other things, having a transparent process. There must be a toll operator agreement with the decision-maker which expressly provides for that independence and sets out the terms of engagement. Such an agreement should include a fixed term of tenure of three years at a fixed fee, in my view.

Irrespective of the safeguards put in place, independence depends upon the integrity of the process and the decision-maker. This can only be assessed by past performance and judged by the quality of the decisions made.

The TCO Role

In keeping with industry dispute resolution schemes, the TCO decision-maker will be an independent, impartial, legally qualified person, experienced in alternative dispute resolution, who seeks to resolve complaints fairly and efficiently.

The TCO does not advocate for either party in the resolution of enquiries or complaints. Its obligation is to act fairly and impartially with both the customer and the relevant toll operator. After receiving an enquiry or complaint, the TCO will:

- review details of the enquiry or complaint
- refer the enquiry or complaint to the relevant toll operator for investigation and response
- request and examine appropriate records as authorised by the complainant from the relevant toll operator
- facilitate discussions between the complainant and the toll operator
- propose mediation or conciliation, if appropriate
- make a decision or recommendation
- issue a formal decision or “Determination”.

There is no internal appeal from a TCO decision, but the complainant is not prevented from exercising his/her legal rights in any way if dissatisfied with the outcome.

Philosophy

The TCO requires that any enquiry or complaint should be resolved promptly and fairly wherever possible, initially between the toll operator and its customer, without referral to the TCO. The TCO, when a matter is not so resolved, will provide every opportunity in processing the matter to enable the parties to settle their issues without a TCO decision.

The TCO, in the event a matter is not resolved, shall make a decision on the material provided by the parties and inform the parties expeditiously.

The Toll Operators’ Obligations

The TCO expects that toll operators must have a high standard, responsive customer relations or complaints resolution service, committed to early resolution of enquires and complaints.

The TCO requires toll operators to produce and provide written material, together with information on their website, for customers and road users about the existence and operation of the TCO. Toll operators must clearly and immediately inform persons dissatisfied with the response to an enquiry or complaint of the existence and means of contacting the TCO.

If a matter is not resolved, the TCO will express an opinion with a recommendation as to the likely outcome. If not accepted by the customer and a written decision is requested, it will be provided.

The TCO Decisions are Binding on Toll Operators

The TCO has the power to make recommendations and decisions regarding a customer’s enquiry or complaint that falls within its jurisdiction under its contract with the toll operators. The toll operators covered by the scheme have agreed that TCO decisions are binding on them.

The TCO will refer matters outside its jurisdiction to a toll operator for consideration, but will advise the customer on the limitation of its powers in making recommendations or decisions in respect to matters outside of its jurisdiction.

The TCO Decisions are Not Binding on Customers

There is no obligation on a customer to participate in the TCO scheme. Importantly, customers still maintain their rights.

It is important to note that although TCO decisions are binding on the toll operators but not the customers, who retain all legal and other rights, if the customer is dissatisfied with the TCO's decision they are not bound to accept it and may pursue other avenues of complaint or dispute resolution open to them.

The TCO Process

The TCO, as with all Ombudsman services, provides multiple avenues for the lodgment of complaints by customers. Complaints can be made online, by mail, by fax or at an appointment. Assistance can be provided over the telephone for the lodgment of complaints. The TCO will maintain a networked electronic communication system and 1800 telephone messaging number to have seven day visibility of the complaints made to it.

The TCO's aim is to acknowledge receipt of a complaint from a customer within less than 24 hours and to forward it to the toll operator simultaneously. Following this, it is anticipated that there will be a prompt response expected from the toll operator (7-10 days), which is immediately forwarded to the customer.

There will be an exchange of information between the parties directed to ensuring that either both parties have an understanding of their respective positions or the complaint is resolved within 30 days. Further correspondence can follow to address issues of concern. Unresolved matters can be dealt with by a TCO recommendation or decision.

The TCO will maintain a dedicated website that enables the lodgment of a complaint and privacy form by email.

The website relevantly provides information about:

- Process
- Contacting the Ombudsman
- Reports and Decisions
- TCO Tolling Customer Ombudsman profile
- News and Information
- Privacy.

Appointments can be made for customers who cannot otherwise lodge complaints with the TCO, to make complaints in all States in relation to matters within its jurisdiction upon request.

Reporting

The TCO since its inception, for the sake of transparency, has produced six-monthly reports that detail statistics of complaints relating to the individual toll operators, as well as discussing issues of concern raised by customers. Such reporting in the future will include measures of the TCO's performance including how it is satisfying customer and industry expectations. Reports can be found at: www.tollingombudsman.com.au.

Summary

The TCO, under its new corporate structure, will be an impartial national dispute resolution system which provides services to private toll operators and customers in the States of Victoria, New South Wales and Queensland at no cost to the State Government. The system must enable consistency of decision-making in respect to the complaints of customers who travel on toll roads, both intrastate and interstate.

The TCO system must provide a number of avenues for contact and the lodgment of disputes, with an integrated electronic communication and telephone system. Importantly for toll road customers who want immediate attention to their complaints, the TCO system should allow for seven day visibility of complaints.

Customers who can be stressed because of the issues in dispute should have a dispute resolution system that enables complaints to be:

- lodged simply and efficiently
- responded to directly and quickly
- forwarded to a toll operator promptly upon receipt
- addressed in personal appointments when required
- not hampered by bureaucratic process
- visible to the TCO at all times, and
- monitored both inside and outside normal working hours.

Recommendations

Complaints that have been brought to the TCO raise issues which I recommend have ongoing attention:

- Appropriate resourcing of customer service and complaints management departments.
- Ensuring call centre operators are continuously trained to respond to customers' needs.
- Continued development of consistency of approach across the whole of the tolling operations.
- Regular monitoring of gantry and LPN recognition systems.
- Interconnectivity between toll operators and State motor vehicle registration branches.
- Fully implemented financial hardship policies.
- Continuing enhancement of the contact process with customers through a range of means to advise of toll issues in a timely manner.
- Additional attempts to verify customer details where initial contact details are unsuccessful.
- Revamping of the statutory declaration system that enables the previous owner to nominate the name of the purchaser of the vehicle.
- The need to remove the stress from the customer's situation, rather than adding to it.
- Greater emphasis for allowing customers to refer issues to the TCO, rather than referring non-payment to debt collectors or, for example, in Queensland having matters go through to a PIN via Demand Notices.
- Ensuring that where a matter is referred to an agent (such as a debt collector), the debt collector applies the organisation's policies accurately and fairly.
- Timely provision of information to customers.

I note that toll operators, in consultation with the State Government and otherwise, have addressed many of these issues and this would account for the fall in the number of complaints in recent times. However, ongoing attention is recommended.

Conclusion

The changes that will come with the new TCO system are designed to provide enhanced services to toll road users and toll operators. It will be well placed to deal effectively with current issues raised in complaints in each State in a timely manner at no cost to the toll road user.

This is essential in a climate in which it is likely there will be an expansion in the number of toll roads managed by private toll road operators in the States.

Below is a table of complaints and outcomes for the reporting period.



Michael Arnold
TCO Tolling Customer Ombudsman

CityLink/Linkt Victoria
EastLink
E-way
Go Via/Linkt Queensland
M5 South-West Motorway
Roam
Linkt Sydney/Linkt NSW

Category	March 18	April 18	May 18	June 18	July 18	August 18
Account Management	10	7	10	7	7	14
	9	3	4	4	4	8
	4	1	1	5	1	4
	19	11	19	14	11	16
	-	2	2	1	-	1
	2	5	6	6	7	8
	2	1	1	3	5	4
Billing & Tolling	3	2	4	2	5	5
	9	1	6	4	6	6
	2	1	1	1	1	1
	20	8	8	9	11	11
	3	3	5	2	7	16
	5	11	9	12	14	9
	3	8	7	7	6	14
Damage to Vehicle				1		
Infrastructure/ Traffic Management						
	1					
Vehicle Classification						
			1			
			1			
TOTAL	13	9	14	10	12	19
	18	4	11	8	10	14
	6	2	2	6	2	5
	40	19	27	23	22	27
	3	5	7	3	7	17
	7	16	16	18	21	17
	5	9	8	10	11	18

Category	March 18	April 18	May 18	June 18	July 18	August 18
Resolved / Closed by Toll Road Operator	13	9	14	10	12	19
	18	4	11	8	10	14
	6	2	2	6	2	5
	40	19	27	23	22	27
	3	5	7	3	7	12
	7	16	16	18	21	17
	5	9	8	10	11	18
Pending						
						5