

DECISION

Summary and outcome

1. The complainant, Mr DR, states that in February 2016 he requested Linkt Melbourne (Linkt) deactivates two tags (ending 528 and 221) which related to previous vehicle registrations he had held.
2. After this was done, he says that he removed the 221 tag from the main body of the vehicle and put the tag in the boot of the vehicle while he awaited the envelope to return it. Mr DR states that the envelope was never received and he forgot about the tag.
3. Mr DR advises that he recently discovered that the direct debits associated with the account had continued to be charged since February 2016 to November 2019. Mr DR notes that a valid tag was attached to the windscreen of the vehicle during these trips. He would like the fees charged as a result of the detection of the old tag in his vehicle to be refunded.
4. Linkt advises that Mr DR continued to travel on toll roads while 221 tag was in the vehicle. Linkt states that he has not been double charged at any time.
5. The evidence supports that while there were double charges imposed on the account at the point of detection by the tolling gantry, these were all credited back to the account within a few hours and no loss has been incurred.

Background

6. The complainant, Mr DR, first made a complaint to the TCO Tolling Customer Ombudsman (TCO) on 4 November 2019.
7. Linkt provided a substantive response on 18 November 2019 stating:
 - a. Mr DR made contact with Linkt on 2 August 2017 to advise that tag 221 was not being detected correctly.
 - b. Tag 221 was flagged as faulty on 6 September 2017 and a new tag issued on 15 September 2017. The new tag was sent to the contact address on the account and a replied paid envelope included with the new tag package.

- c. Tag 221 remained in the vehicle and was detected at a toll point on 28 September 2017 and so reactivated. For this to occur, it had to be visible.
 - d. Tag 221 is now permanently deactivated.
8. Linkt reports that tag 221 was detected 16 times from September 2017 to December 2018, but then 64 times over a number of months in 2019. As noted above, a tag should only be detected if it is in the correct windscreen position. The total tolls charged to tag 221 were \$446.40, with a further \$32.90 charged for tolls where video matching of the vehicle's licence plate number was required.
9. Linkt has credited the account with the \$32.90 for the licence plate matching fees and provided \$35.00 in goodwill payment.

Current position of the parties

10. Mr DR states that the tag was in the boot of the vehicle and could not have been triggered in the manner suggested by Linkt. Mr DR notes that the active tag in the vehicle has also been charged and so he has already paid for the trips he has undertaken.
11. His position is that tag 221 was reactivated without his consent, when he was travelling in a vehicle which had a different and valid tag. He notes if there are two tags in the same vehicle, they would travel the same route. One tag would be charged normally and the other, if picking up a signal, would be charged by at least some or all of the same toll points. This does not appear to have occurred.
12. Linkt explains that if there is a window into the boot of a vehicle, there is a chance that the tag can still be detected. Linkt claims that there has been no double charging to Mr DR and charges for all trips have been validly incurred.

Discussion

13. When making a decision, I am required to examine all the available information and to reach an outcome which is fair to both parties and is based on the 'balance of probabilities'. This means that where the parties do not agree on an issue, I need to decide whether it is more likely than not that a particular event did, or did not, happen.
14. From examining all the information, there appear to be some discrepancies in the dates and explanations provided by both parties. However, based on a review of what is fair in the circumstances, I am satisfied that the following is what most likely occurred.
15. In mid-2017, Mr DR checked his account and sent an email of 22 July 2017 challenging the charges he had incurred for Licence Plate Number (LPN) matching fees. These occur when no valid tag is detected in the vehicle.

16. In response to this email, Linkt sent a new tag to Mr DR. It also, on 14 September 2017, credited \$130.10 to Mr DR's account to refund the 'No Tag in Vehicle' fees.
17. I am satisfied that it is normal process to send an envelope for the return of a faulty tag along with the new tag. I am further satisfied that it is more likely than not that the envelope was included and that Mr DR received it as there is evidence that he received the new tag. Despite this, he did not return the old tag, but over the course of this complaint, Linkt has refunded the non-return fee of \$15.00.
18. Mr DR continued to travel on toll roads between mid-2017 and 30 October 2019, apparently with both tags still in the vehicle.
 - a. On 82 occasions, 'No Tag in Vehicle' fees were incurred totalling \$38.85.
 - b. On another 300 occasions, particular gantries detected the trip twice (owing to the multiple tags in the vehicle) and while the toll associated with the second tag was nominally charged to the account, it was subject to a 'Trip Cancellation' adjustment to credit back the second charge – normally within a few hours.
 - c. Over this time, 93 direct debt payments of \$50 each were regularly made to the account – a little less than once per week for the 113 weeks.
19. Mr DR knew that he should have returned the cancelled tag and did not do so. I am not satisfied by his explanation that he did not receive the envelope and just 'forgot' about the tag in the vehicle. Given the waiver of the 'no return fee' and the automatic adjustments made by the Linkt system once multiple charges were detected for the same trip, I do not believe that Mr DR's failure to return the tag has caused him any loss.
20. Prior to the complaint being made to the TCO in November 2019, Mr DR had not challenged the frequency of the direct debits on his bank account over a period of two years. It is reasonable to surmise that this is because the amounts that he was actually being charged were reflective of the trips that he had undertaken.

Determination

21. I am satisfied that, in the circumstances, Mr DR has not established grounds for his complaint against Linkt. Mr DR is not disputing the charges that have been validly incurred for the trips he has taken; merely disputing any charges over and above those which he should reasonably have to pay for using the toll roads.
22. On the basis of the analysis above, I am not satisfied that he has paid any charges over and above those duly incurred. This is because the initial registered overpayments on the account appear to have been credited back through the automated 'trip cancellation' process where double payments are detected.
23. There is no basis to find that Linkt has any liability to Mr DR.

24. I remind the parties that under the TCO Tolling Customer Ombudsman process, my decision is not binding on Mr DR and that he can seek relief in any other forum.
25. In making this Determination, I note that the manner in which Linkt's resolution team has engaged with Mr DR, and this complaint more broadly, has introduced a level of unnecessary confusion.
26. When responding to consumers, complaints management staff have a responsibility to properly investigate the matters being raised and provide clear responses, supported by relevant evidence. Had they done so, the discrepancies between the contemporaneous correspondence, the dates provided by both parties for when things happened, and the transaction history would have been identified and reconciled much earlier.
27. Instead, the responses provided were incomplete, dismissive of the enquiries raised and placed faith in a process which was familiar to Linkt staff, but had obviously caused confusion for their consumer. The fact that Linkt had sought to explain any anomalies with supposition only added to the confusion, although I accept that this was done in an effort to try to be helpful and reconcile those anomalies.
28. To be fair, this is not a usual occurrence as the Linkt Customer Resolutions team is normally thorough in its dealings with the TCO.
29. However, parties to external dispute resolution processes need to provide responses and support their submissions with documentary evidence, rather than guessing about what might have happened.
30. Providing Mr DR with evidence of where each of the charges incurred through detection of the second tag, highlighting where those charges had each been refunded, would likely have avoided a complaint to the TCO at all. It was only when the transaction history was provided in December 2019 that the picture became much clearer.

Nicolas Crowhurst
Interim TCO Tolling Customer Ombudsman

Dated: 13 February 2020