

## DECISION

### Summary and outcome

- The complainant, Ms C, lived in Melbourne. Ms C has a Linkt Account. She has a lawyer from a community legal service who has authority to act on her behalf (Ms B). Her complaint made on 6 April 2023 was about Ms C being contacted by various debt collection agents acting for Linkt in respect to certain road toll debts. Ms B has advised that it had been made clear on a number of occasions to Linkt that debt collectors were not to contact Ms C directly. On this basis and due to the fact that this had a significant impact on Ms C who has a pre-existing mental health condition, she was therefore entitled to compensation from Linkt. Ms C says that she has been significantly and adversely impacted by being contacted by debt collectors for Linkt at a time when the debts have been paid and contact was also made in respect to toll debts not incurred by Ms C. As the Linkt Systems have failed to work correctly and as a result there was continual contact with Ms C by debt collectors as agents of Linkt seeking recovery of debts which caused her considerable distress, she wants compensation from Linkt for \$2000 or more. Ms C also wants a formal apology from Linkt about the way in which they have dealt with Ms C.
- In short, Ms C believes that Linkt systems for resolving disputes with consumers generally are ineffective and defective particularly in relation to a person in Ms C's circumstances, The dispute Ms C suggests is entirely due to Linkt's failure to deal appropriately with Ms C in this matter. Through her legal adviser Ms B, Ms C has been in contact with the Tolling Customer Ombudsman (TCO) over various months by email in relation to these matters. More particularly, Ms B suggests that the real issue of the dispute is that the debt collectors for Linkt contacted Ms C in relation to various debts as part of a deliberate Linkt strategy seeking to obtain payments from consumers particularly those who are experiencing hardship, (in this case mental health issues), even if they do not owe debts to Linkt.
- Presently, Ms C does not owe an amount to Linkt before any settlement offer as Linkt have waived various outstanding toll fees and administration fees. However, Ms C has rejected their offer to pay a "good will" amount of \$200 as the settlement offer to Ms C.
- Linkt's position was that generally its dealings with Ms C were professional and appropriate. They point out that they actually proactively sought to assist Ms C in

relation to toll debts going back as far as 2013 by withdrawing 34 toll notices from Fines Victoria so that they would not be recovered by Fines Victoria. The amount of the debts waived by Linkt is therefore \$6771. However, Linkt did subsequently apologise on a number of occasions about the manner in which they had used the debt collectors to seek to recover the toll debts from Ms C even though the debts had already been waived. Linkt suggests that there had been significant communications between Ms C through her legal adviser and Linkt over a long period of time including from the time of lodging her complaint on 6 April 2023. Linkt also suggests it has continued to, after the complaint was lodged, engage appropriately with Ms C to seek to resolve the dispute.

- Linkt also pointed to the fact that they continued to have direct settlement discussions with Ms B on behalf of Ms C in September/October 2023 to seek to resolve the matter but unfortunately this did not resolve the matter. Whilst the TCO was not involved in those discussions, he was aware the potential settlement discussions were taking place and that there were a number of discussions/interactions between the parties at that time.
- Linkt suggests that they made various offers during the course of their interactions and discussions with Ms C in respect to various toll road trips which involved a reduction on the administration fees to certain travel fees as well as waiving all toll charges going back to 2013. Linkt have suggested that they had waived all of the toll charges and administration charges on the various trips undertaken by Ms C because of her health difficulties, the fact that she was considered a hardship case and the apparent distress the process has caused to Ms C. Linkt has therefore suggested that all of its dealings with Ms C have been appropriate. Linkt considers that its settlement offer is fair and reasonable in the circumstances, in view of the amount of outstanding charges it has waived in this case. Linkt point out they had been consistent in their settlement position including in their direct discussions with the adviser of Ms C in August/September 2023. They also point out that they have apologised to Ms C for the difficulties and stress caused by the debt collectors contacting her for debts that have been waived or debts that were not incurred by Ms C on a number of occasions both by telephone and email.

## Background

- The complainant, Ms C, first made a complaint to the TCO on 6 April 2023, but the origins of the dispute is in respect to matters going back to toll road travel for a number of years. The toll notices and the fees upon which were waived by Linkt were first discussed between the parties in February 2023. I note that there were various interactions between Linkt and Ms C from February 2023 to April 2023. However, the focus of the dispute for Ms C seems to be her dealings with Linkt after the toll debts had been waived by Linkt. The overall dispute raised by Ms C involves her interactions with Linkt and the processes of Linkt to recover toll debts.
- The view of Ms C is that Linkt should justify its position and compensate her because of the impact on Ms C of the debt collectors contacting her even when the debts had been waived and in respect to debts that she did not incur. She also suggests that Linkt's systems are cumbersome, not user friendly and not effective

and this is one of the reasons for the present dispute continuing for a number of months. In particular, Ms C considers that Linkt, as a result of its processes has complicated the matter, caused undue stress to her and made ultimately settlement of the matter more difficult.

- In her application to the TCO, Ms C through Ms B, stated that:

“Ms C is experiencing significant hardship due to serious mental illness and several large debts she is trying to deal with. Transurban has been on notice about Ms C’s hardship since 23 February 2023 when we contacted Linkt Assist to request withdrawal of her toll fines and waiver of her outstanding invoices .....

Nevertheless, on 5 April 2023, Ms C was sent a Notice of Demand by Recoveries Corp in relation to an outstanding debt (attached). This is highly inappropriate and caused significant distress to Ms C, who experiences serious mental illness. Linkt has been on notice of Ms C’s hardship since 23 February 2023 and we have been trying to resolve her outstanding debts since then.

When raised with Linkt Assist (C on 6 April 2023), he said he could try to deal with the debt as part of the existing hardship request. However, this is insufficient. In addition to waiving the debt, Linkt must change its systems so that matters aren’t referred to debt collectors when a hardship request has been received. Linkt should apologise to and compensate Ms C”.

- Linkt responded to Ms C on 4 May 2023:

“I understand Ms B has raised concerns over outstanding debt of Ms C with Linkt. Thank you, Ms B, for bringing this matter to our attention. I am so sorry to hear about the position and impact on Ms C. We have investigated the matter fully and note that a demand was issued regarding overdue amount with Linkt for vehicles [1\*\*\*\*Q] and [X\*\*\*\*3].

Upon investigation we were able to determine, whilst Ms B contacted us on February 23<sup>rd</sup> 2023 notifying us of the circumstances, we did have a delay in response however, the position of the Ms C was **noted** and Linkt addressed the matter by withdrawing 34 Toll infringements from Fines Victoria \$6771.00, preventing any escalation via State Government <https://online.fines.vic.gov.au/Your-options/If-you-dont-deal-with-your-fine>. The infringements were outstanding from as early as 2013. We also waived any toll notices and trips taken by the customer during the period in which she was experiencing hardship.

Our Linkt Assist programme requires a comprehensive investigation and due to age of some of the invoices, During the period of assessment which requires manual review of each issued invoice and infringement an invoice was addressed by the Collection agency before it was identified by Linkt. Once we received notification of this occurrence the Demand was immediately withdrawn and waived.

When a customer notifies us of Hardship or Changes in circumstance, our process is always to notify any parties collecting on behalf of Linkt. Unfortunately, in this siloed incident due to the already occurring collections on the Ms C’s account, the Notice of Demand was unfortunately issued.

Ms C now has \$0.00 outstanding for vehicle [1\*\*\*\*Q] and [X\*\*\*\*3]., when Ms B contacted hardship team the total amount waived by Linkt hardship team approximately was \$3385.10 and we believe that Ms C is sufficiently compensated.

Once again, we apologise for the delay experienced by Ms C. I trust that once Ms C has supplied this information, the complaint will be resolved to her satisfaction. If Ms B would like further information, she can get in touch with us via return email can also contact the Customer Resolutions team on 1300 381 570 directly. Once again, our sincere apologies for any inconvenience this may have caused. Please advise if any further information in this matter is required. Thanks again for your enquiry. If you require any further assistance or wish to discuss this further, please get in touch with me via return email. You can also contact the Customer Resolutions team on 1300 381 570.”

- Ms B on behalf of Ms C on 4 May 2023 suggested in response to Linkt that:

“This is not a satisfactory resolution. At a minimum, Linkt should apologise and commit to fixing their systems so that debt collectors do not pursue customers where there has been a notification of hardship applying.

Debt collectors contacted Ms C twice, once was after I complained about the first incident. This is unacceptable.

The fact the fines and invoices were withdrawn/waived is immaterial to this complaint. Those are separate matters which were assessed on their own merits. This is a complaint about debt collectors pursuing vulnerable community members who are liable to serious reactions of trauma and hardship and exacerbation of severe mental health conditions”.
- Linkt on 9 May 23 sought to respond to Ms B’s email by explaining their processes in these matters stating that:

“Thank you for forwarding Ms B further correspondence through to us.

I appreciate Ms B raised concerns and feedback regarding our customer and internal processes.

I would like to clarify in no circumstance would a customer be sent forward for collections either internally, or by one of our Collections agencies.

We have a stern process in place to ensure once a notification of hardship is received, the account is placed in a holding status for Collections.

In the situation of Ms C this process was followed, and the account was placed on hardship notification. However, the agent managing the case had not yet identified all the invoices due to age of Toll invoices, including the ones held with our third-party collection agency so the demand was issued.

It is the agent’s duty to identify all debt once notification is received and the agent was provided feedback with further training to be scheduled.

I acknowledge Ms C’s frustration and I sincerely apologise for any inconvenience caused. If Ms C has any further issues with Linkt toll invoices, she can contact the Customer Resolutions team directly on 1300 381 570 with the reference number 00535533 - and we can review this matter further.”
- Ms B on behalf of Ms C by email responded to Linkt on 9 June 2023 stating that she understood Linkt’s position but suggests that their systems are not working. She noted that Ms C had been contacted again by the debt collectors. Ms B stated

that Linkt had to advise as to how they would solve this systemic problem. This was the case where Ms C was a hardship case and should not be contacted by the debt collectors.

- Linkt responded to Ms B on 20 June 2023 on the following basis:

“Thank you for providing Linkt with a copy of Ms B’s enquiry. I’m very sorry to hear of Ms B’s recent experience.

I’ve raised once again with relevant department about receiving further communication from debt collectors for Ms C, also advised them to immediately cease any further communication sent out to Ms C.

I understand Ms B is unhappy with the level of service received whilst resolving this issue. Please accept our sincere apologies to Ms B as the level of service experienced did not meet her expectations.

Once again please accept our sincere apologies for any inconvenience caused.

Please advise if any further information in this matter is required”.
- Ms B for Ms C responded to Linkt on 20 June 2023 on the basis that:

“Thank you for your email.....

Please note Ms C has today received another debt collection notice email from N (a debt collector). As I have said now for the fourth time (this is the fourth time this has happened), these notices are distressing for Ms C who has serious mental illness and should not be being sent. Her hardship application has been on foot for four months. Please address your systems ASAP so that vulnerable customers are not sent debt collection notices when they have made hardship applications”.
- Ms B for Ms C responded to Linkt again on 13 July 2023 and stated that:

“Ms C has received a **fifth** debt collection notice from one of Linkt’s debt collectors. This keeps happening and clearly Linkt’s assurances that this has been addressed are not accurate. At what point should Ms C, whose mental health is fragile and who is experiencing serious distress from all these contacts, become entitled to compensation?

Please advise how you intend to deal with this ongoing systemic issue affecting the wellbeing of your customers and advise whether compensation will be considered”.
- Linkt responded to Ms B for Ms C on 13 July 2023 and stated that:

“Linkt have been doing an inquiry into this case to try and understand the circumstances around the continued contact before responding as we understand this has been very distressing.

We would like to apologise for any additional cause for concern this may have created for Ms. C and frustration for Ms. B.

We have taken this matter very seriously and an audit of the processes and circumstances surrounding the delays in communications and continued contacts from Collections has been undertaken.

Through this process there has been some opportunities identified, so thank you for bringing his to our attention.

From our review we acknowledge there was two contacts from Recoveries Corp on the 5<sup>th</sup> and 11<sup>th</sup> of April, which led to the original contact with the Tolling Customer Ombudsman.

When we addressed this matter, we again contacted Our Credit and Linkt Assist teams to ensure the accounts with outstanding debt were held to prevent any possible further contact for license plate numbers [1\*\*\*\*Q] and [X\*\*\*\*3].

We understand there was further collections activity post managing the debts associated with the license plate numbers [1\*\*\*\*Q] and [X\*\*\*\*3].

On the 2<sup>nd</sup> of June we identified a third license plate number which is responsible for generating further collections activity which we were not made aware of. This license plate number was not identified or assessed via our Linkt Assist processes.

When the third license plate number was detected, we proactively issued a hold and to cease any further contact. This was actioned by our credit teams on the 6<sup>th</sup> of June; however, contact had already occurred the same date.

There are privacy concerns surrounding this third license plate number as the name is not appearing under Ms C's name however, I can confirm that we have now resolved any debts outstanding with that license plate number to ensure that there is no further contact.

We hope this resolved any outstanding matters and once again would like to apologise for the inconvenience caused."

- Ms B for Ms C responded to Linkt on 13 July 2023 and stated:

"If the new registration plate is not registered to Ms C or linked to an account in her name, why is she accruing debts for this registration? This seems strange.

Also, why was there further debt collection activity after Transurban's action to manage the debts associated with [1\*\*\*\*Q] and [X\*\*\*\*3]?"

Ms C has very serious mental health issues. She reports that each contact from a debt collector is highly distressing and confusing, and she is at risk of relapse as a result of these communications. At what point will Transurban learn the lessons of Robodebt? These kinds of practices could lead to deaths and other serious harm to vulnerable community members".

- Linkt responded to Ms B on 17 July 2023 and stated:

"Thank you for sending through Ms. B's enquiry.

To provide some context, Linkt obtain any contact and registration and contact details from Victorian roads if there is no valid arrangement in place for any vehicle travelling on Toll roads. If there is discrepancy in the registration details, I would encourage contact with Victorian roads to have this amended as the details are provided direct from their office.

As mentioned, this third License Plate Number which was responsible for generating contact post April, is separate to the details Linkt were advised in any communications provided from Ms. B. This License Plate number is not related to any details we have for Ms. C and as per the screen shot sent, is addressed to a separate name. As mentioned Linkt have resolved any debt outstanding for this registration to avoid any possible further consequence to Ms. C, without questions to ensure due diligence.

I have also checked against the license plates numbers [1\*\*\*\*Q] and [X\*\*\*\*3] and am unable to see further Collections activity post April as agreed. If there is further activity for these License plates numbers, please let me know as we have no record of these mentioned activities, and this would be in direct conflict with the directions provided for matters surrounding these License plate Numbers.

I am very sorry to hear this is causing any further distress for Ms. C. We have done our best to mitigate communications as we appreciate the serious nature of Ms. C's circumstances.

Linkt acknowledge and appreciate our role and responsibility in the community, particularly surrounding our vulnerable customers.”

- Ms B on behalf of Ms C responded on 20 July 2023 to Linkt and stated:

“Thank you for this investigation.

I have supported Ms C to log in to her VicRoads Online Account which shows she is the registered owner of only one vehicle – [1\*\*\*\*Q]. [X\*\*\*\*3] was the previous registration number of the same vehicle. VicRoads will not be able to assist Ms C without us knowing the registration number that is incurring invoices that are going into her name. Are you able to tell us the registration number, given it is connected with Ms C?”

- Linkt responded to Ms B on 27 July 2023 and stated that:

“After further investigation, we have identified the third number plate was not associated with Ms. B's client and we sincerely apologize for the confusion. We can advise there is no outstanding debt and there should have been no contact from any Collection agencies, however, acknowledge that a further error was made, and the collection activity continued due to human error in notifying the agencies of the waived invoices.

We continue to provide coaching to our team and review our processes to ensure errors are minimized and improvements made where possible.

As an offer of goodwill for the time taken to resolve this complaint, and the errors impacting Ms. C we offer a further \$150.00 financial gesture.

We recognize this experience has been far from ideal and apologies for any impact to Ms. C.”

- On the same day, Ms B responded and stated that:

“My client was contacted five times for debt collection that should never have occurred. Linkt was on notice from before the contacts were made that she experiences severe mental illness (and has a VCAT-appointed administrator because of this). Ms C has experienced significant distress and confusion in response to this unwarranted contact.

It has now been admitted that not only was there “human error”, but also clearly system error where Ms C was being contacted in relation to debts that had absolutely nothing to do with her.

Here again Linkt has authorised and failed to prevent unlawful debt collection activity against someone with serious mental health issues. You must be aware that similar consequences including suicide could follow from your debt collection activities. Linkt has undergone significant changes to better respond to the vulnerabilities of its customers, but this episode shows that has not been very effective.

An apology and \$150 credit is insufficient to compensate for Ms C’s distress caused by Linkt’s actions and failures. We are requesting \$2,000 credit in recognition of the impact on Ms C.

If this is not accepted, we will be considering contacting the media about these failures”.

- On the same day, 27 July 2023, Ms B emailed again and stated that Ms C no longer uses the toll roads, has relinquished her etag and requested that Linkt pay \$2000 into her account.
- During August to September 2023, the TCO understands there were various direct discussions between the parties in respect to a settlement.
- On 28 September 2023, Ms B for Ms C sent another email stating that:

“G S of Transurban has since offered compensation of \$200. In light of the repeated instances of harm to Ms C and the fact that this harm was the result of multiple separate mistakes about different issues, this does not reflect the gravity of what has occurred”.
- On 28 September 2023, the TCO sent an email to Ms B for Ms C saying that he would speak directly with Linkt about the matter and then revert back to her. This was on the basis that it was taking a considerable amount of time to resolve the matter, the parties had had direct discussions on the matter, and it did not seem to have resolved the matter. It was also to determine Linkt’s final position clearly, so if there could be no resolution, the TCO could proceed to the determination phase of the process.
- During the period between July and early October, the TCO had various correspondence with Ms B for Ms C in respect to the TCO process and the TCO jurisdiction in respect to this matter. In those emails the TCO made clear that he meets regularly with Linkt to discuss issues affecting consumers. The TCO made



clear in those emails that the issues raised by Ms C had been the subject of part of those discussions.

- From 28 September 2023 - 3 October 2023, the TCO had direct discussions with Linkt seeking to achieve a potentially mutually acceptable settlement of the dispute.
- After those discussions, the TCO went back to Ms B on 3 October 2023 as promised and informed Ms B of the discussions with Linkt. In that email, it was stated that:

“Since your email of last week, I have had various discussions and correspondence with Linkt on this matter. They understand and are sympathetic as to Ms C’s circumstances. However, they do not feel they can revise their existing settlement offer to Ms C. I also understand from them that Ms S has been away recently on holidays. As discussed with you previously, the next step in the process is for me to review all the material and evidence from the parties and then prepare a written determination on this matter. This obviously takes some time. Is there any more material that you want to put to Linkt and for me to take into account in preparing my determination? As you are aware, the consumer is not bound by any of my determinations, but Linkt is. Confirming, the consumer has all their legal rights available to them and if required can pursue those rights outside the TCO System if they wish to do so. Please let me know if you do not want me to write a determination on this matter or have further evidence to be provided from Ms C”.

- Ms B in response on 3 October 2023 provided a detailed response to the email and stated that:

“In case it’s not clear from the communications to date, I note:

- Ms C suffered significant distress as a result of the unlawful and inappropriate contacts made by Transurban’s debt collectors. She described feeling shocked, confused, alarmed and highly distressed by the conduct. And then it kept happening.
- Ms C suffers from bipolar disorder and her condition is so serious and debilitating that she has a VCAT-appointed administrator to manage her financial affairs. She describes being in a very vulnerable state over the months when the contacts were made. These unlawful contacts could have seriously tipped her over the edge.
- Ms C was already in significant debt and describes becoming intensely stressed about how she could possibly deal with the debts alleged by Transurban’s debt collectors.
- This prohibited conduct could have had even more devastating consequences for a vulnerable person contacted multiple times about debts that did not exist. The Robodebt Royal Commission findings confirm the very serious harm, including suicide, that can result from prohibited and inappropriate debt collection activity.
- We have complained to N, Linkt’s debt collector in relation to the three contacts made after the debts had been waived. In my submission, the three last contacts in time constituted prohibited debt collection activity under s 45 of the Australian Consumer Law and Fair Trading Act because the alleged debts did not exist (some had been waived and some related to an entirely unrelated debtor and had

nothing to do with Ms C). The first two contacts were also improper, though potentially not unlawful, because a hardship application was being considered at the time.

- N did not resolve the complaint. We attempted to complain to the Australian Financial Complaints Authority about N's conduct, but because the underlying contract relates to a tolling contract, the appropriate complaint resolution body is the Tolling Customer Ombudsman and AFCA cannot accept the complaint, even though C Corp (N's parent company) is a member of AFCA.
- Ms C repeatedly requested that Transurban consider the systemic aspects of this ordeal and make systems changes to ensure it did not happen again. Transurban repeatedly denied that there was a systemic element to the incidents. Based on what has happened to Ms C, we are extremely concerned that Transurban is pursuing debts from extremely vulnerable people who may not owe any debts at all.
- Transurban has recently announced \$92 million in profits and yet refuses to compensate Ms C more than \$200 for her distress. By contrast, had this matter been able to be resolved by AFCA, Ms C would have been eligible for up to \$5,400 *per incident* of prohibited debt collection.
- I further note that the incidents constitute breaches of ACCC/ASIC's Debt Collection Guideline, specifically:
  - 9(b): contacting a debtor directly when you know or should know they have a representative
  - 2(a): contacting a debtor for an unreasonable purpose – the debts had already waived and so not owed by the debtor (non-existent debts), and in the other case the debt didn't relate to the alleged debtor (mistakenly attributed to OC when it related to a completely unrelated party). Therefore, there were no reasonable grounds for believing that the person was liable for the debt.
  - 5(j): the contacts also potentially constitute undue harassment because the debt collector was aware or should have been aware that the debtor had serious mental illness and was subject to an administration order and yet kept contacting her (three times in total)

For the above reasons, in my submission the TCO should:

- Make a finding that Transurban authorised its agents to engage in prohibited debt collection and breaches of the ACCC/ASIC Debt Collection Guideline by not providing its agents with updated information about the progress and waiver of the debts – thereby authorising attempted collection of non-existent debts, and by alleging Ms C owed a debt that had nothing to do with her.
  - Make a recommendation for substantial compensation for the distress and harm caused to Ms C, in the order of the compensation that AFCA can order.
  - Recommend that Transurban issue a formal apology to Ms C.
  - Recommend that Transurban examine and rectify the systemic errors that led to this egregious situation”.
- During the period between November and December 2023 there was correspondence between Ms B and the TCO about the timing of the final determination. The TCO in a number of emails made clear that given the amount of material and evidence provided by the parties on sensitive and important issues the drafting of the determination would regrettably take more time than usual. For example, the TCO in an email dated early December stated:

“Apologises for delay.

We have a number of determinations at the moment. However, the Ms C determination is the priority and I have been working on determination this morning again in order to finalise.

The determination has taken some time unfortunately given there is a plethora of written material from the parties including several submissions from you on behalf of Ms C.

I am trying to finalise as a matter of urgency.”

## Current position of the parties

- Ms C through her adviser Ms B wants a formal apology from Linkt and also significant compensation on the basis of the impact that continual contact from the debt collectors has had on Ms C. Ms C stated that she wants Linkt to pay an amount of \$5000 albeit that Linkt has waived administration charges and an outstanding toll charge in the amount of \$6671 as part of its settlement offer.
- Linkt states, whilst it understands Ms C is frustrated that this matter has taken some time to resolve, it considers all of the toll charges originally imposed have been imposed on Ms C legitimately. It considers the various interactions with Ms C over the last 18 months and it proposing various settlement offers during that period on the basis that Ms C was a hardship case indicates its desire to seek to assist Ms C and ultimately settle the dispute. In particular, it notes that this included effectively waiving toll charges and admin charges for 34 trips on toll roads dating back to 2013 in the amount of \$6771.
- The offer of Linkt to Ms C of \$200 should be seen together with the significant waiver of debts owed by Linkt in April. It also suggests that there have been a number of apologies in the last 6 months from Linkt representatives both over the phone and by email about the contact with Ms C by debt collectors which caused Ms C concern and stress given her existing condition.

## Discussion

- 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.
- From examining all the information and based on a review of what is fair in the circumstances, I am satisfied that the following is what most likely occurred.
- As a general observation, there is no dispute between the parties that Linkt’s debt collectors contacted Ms C in respect to debts that were not hers or debts that had been waived by Linkt. There is no dispute between the parties that Ms C is considered a hardship case under Linkt’s requirements for that status. There is also no dispute between the parties that Ms C has been distressed because of the

continual and sometimes unnecessary contact by the debt collectors of Linkt in respect to this matter. There also is no dispute between the parties that Linkt have waived the toll charges and administration charges of Ms C for multiple use of the toll roads in the amount of \$6771. There is no dispute between the parties that the original toll charges were incurred by Ms C for the use of toll roads.

- The two parties have a different view as to what are the crucial facts that are relevant to the construction of the dispute between the parties. Ms C seems to take a more narrow view which focusses on the activities of the debt collectors for Linkt and the methods and strategies of Linkt in using the debt collectors. The Linkt view is a broader one which includes importantly for Linkt applying its hardship provisions to Ms C and effectively waived the toll charges and administration charges for a number of toll road trips over a number of years. I am of the view that the broader view is to be preferred in the circumstances of this matter.
- In my view, the crucial issue in this case is whether or not the debt collectors for Linkt contacted Ms C in relation to various debts as part of a deliberate Linkt strategy seeking to obtain payments from consumers particularly those who are experiencing hardship (in this case mental health issues) even if they do not owe debts to Linkt. The legal adviser for Ms C suggests this is the case whereas Linkt attribute this to human error. Irrespective of the preferred view, I agree with the adviser for Ms C, it is a concern the number of times that the debt collectors contacted Ms C given her circumstances and the fact that it was clear Ms B should be the point of contact for the matter (more of this below).

## Determination

- I am satisfied that, in the circumstances, Ms C has not established grounds or evidence for her complaint that the debt collectors for Linkt contacted Ms C in relation to various debts as part of a deliberate Linkt strategy seeking to obtain payments from consumers particularly those who are experiencing hardship (in this case mental health issues) even if they do not owe debts to Linkt.
- In my view, however I have a real concern about the number of contacts made by Linkt's debt collectors to Ms C in respect to debts that Ms C had not incurred or that had already been waived by Linkt. This is particularly in circumstances where Ms C has debilitating mental health issues and is being adversely affected by each contact. This is also especially the case where it was clear that Linkt and their agents should be dealing with Ms B as adviser for Ms C on the basis that Ms C was a hardship case.
- When responding to consumers, Linkt have a responsibility to properly brief, instruct, communicate and manage their agents and in particular their debt collector agents. In this case, given the number of times the debt collectors have contacted Ms C in respect to the debts that she did not incur or had been waived it appears that the system Linkt have in respect to its arrangements with its debt collector agents has not worked properly on this occasion.

- As indicated on a number of occasions to the legal advisor of Ms C, the TCO meets with Linkt regularly every quarter to discuss “hot button” issues affecting consumers. This matter has been directly raised and discussed by the TCO and Linkt and in particular the need for effective management by Linkt of its debt collector agents and the need for effective systems to ensure the appropriate management by Linkt of its debt collector agents. Linkt have acknowledged to the TCO the importance to consumers of both these matters and in particular in respect to hardship cases.
- Accordingly, on the basis of the above, I recommend that Linkt make a goodwill offer of \$500 to Ms C rather than \$150 or \$200 given the number of contacts made by debt collectors to Ms C which caused a vulnerable person stress and anxiety. This recommendation should be seen in the context that as part of the dispute Linkt proactively sought to assist Ms C in relation to toll debts going back as far as 2013 by withdrawing 34 toll notices from Fines Victoria so that they would not be recovered by Fines Victoria. The amount of the debts waived by Linkt was in the amount of \$6771. I also note that Linkt, during the dispute (including correspondence between the parties through the TCO) apologised on a number of occasions both by phone and in writing for the distress caused to Ms C by the contact by the debt collectors.
- I remind the parties that under the TCO process, my decision is not binding on Ms C and that she can seek relief in any other forum.
- As discussed with Linkt previously, it remains of fundamental importance to consumers that their matters are dealt with in a timely and efficient manner. There are valid reasons why this matter has taken some while to resolve but the onus is on Linkt to ensure effective turnaround times for these disputes. As referred to above, I do however note again Linkt being proactive earlier on in the dispute effectively waiving numerous toll charges for Ms C going back a number of years for travel on toll roads and actively intervening on Ms C’s behalf with Fines Victoria.

**Phillip Davies**  
**Tolling Customer Ombudsman**

**Dated: 11 January 2024**