

DECISION

Summary and outcome

- The complainant, Mr R, lived in Melbourne. Mr R has a Linkt Account. He has a Financial Counsellor from the [organisation name] who has authority to act on his behalf (Ms M). His complaint made on 11 December 2023 was about Mr R being contacted by various debt collection agents acting for Linkt in respect to certain road toll debts which were in fact waived or were not his debts. On this basis and due to the fact that this had a significant impact on Mr R who has a pre-existing mental health condition, he was therefore entitled to compensation from Linkt. Mr R says that he 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 Mr R. As the Linkt Systems have failed to work correctly and as a result there was continual contact with Mr R by debt collectors as agents of Linkt seeking recovery of debts which caused him considerable distress, he wants significant compensation from Linkt.
- In short, Mr R believes that Linkt systems for resolving disputes with consumers generally are ineffective and defective particularly in relation to a person in Mr R's circumstances, The dispute Mr R suggests is entirely due to Linkt's failure to deal appropriately with Mr R in this matter given the continuing contact by its debt collectors. Through his financial counsellor Ms M, Mr R has been in contact with the Tolling Customer Ombudsman (TCO) over various months by email in relation to these matters.
- Presently, Mr R does not owe an amount to Linkt before any settlement offer as Linkt have waived various outstanding toll fees and administration fees. However, Mr R has rejected their offer to waive the fees as the settlement offer to Mr R.
- Linkt's position was that generally its dealings with Mr R were professional and appropriate. They point out that they sought to assist Mr R in relation to toll debts. The amount of the debts waived by Linkt is therefore \$142.06. 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 Mr R even though the debts had already been waived. Linkt suggests that there had been significant communications between Mr R and Linkt over a long period of time including from the time of lodging his complaint on 11 December 2023. Linkt also

suggests it has continued to, after the complaint was lodged, engage appropriately with Mr R to seek to resolve the dispute.

- Linkt suggests that they made various offers during the course of their interactions and discussions with Mr R. This involved a reduction on the administration fees to certain travel fees as well as waiving all toll charges. Linkt have suggested that they had waived all of the toll charges and administration charges on the various trips undertaken by Mr R because of his health difficulties and the apparent distress the process has caused Mr R. Linkt has therefore suggested that all of its dealings with Mr R 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. They also point out that they have apologised to Mr R for the difficulties and stress caused by the debt collectors contacting him for debts that have been waived or debts that were not incurred by Mr R on a number of occasions both by telephone and email.

Background

- The complainant, Mr R, first made a complaint to the TCO on 11 December 2023, but the origins of the dispute is in respect to matters going back to toll road travel earlier in 2023. The toll notices and the fees upon which were waived by Linkt were first discussed between the parties in June 2023. However, the focus of the dispute for Mr R seems to be his dealings with Linkt after the toll debts had been waived by Linkt. The overall dispute raised by Mr R involves his interactions with Linkt and the processes of Linkt to recover toll debts.
- The view of Mr R is that Linkt should justify its position and compensate him because of the impact on Mr R of the debt collectors contacting him even when the debts had been waived and in respect to debts that he did not incur. He 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, Mr R considers that Linkt, as a result of its processes has complicated the matter, caused undue stress to him and made ultimately settlement of the matter more difficult.
- In his application to the TCO, Mr R through Ms M, stated that:

“Mr R was sent text messages pursuing the debt on the following dates:

10/08/23
27/09/23
04/10/23

Each time this occurred it caused significant stress & confusion to Mr R who suffers from multiple mental & physical health issues.

On the 16/05/23 Mr R received a LINKT text message to his phone for a person called M, again this was extremely confusing & upsetting for Mr R.

On each occasion of the debt being pursued via text message I contacted LINKT via email to advise of this happening.

Whilst LINKT were apologetic to this issue it continued to happen and is prohibited debt collection in breach of s 45 of the Australian Consumer Law and Fair Trading Act.”

- Linkt responded to Mr R on 14 December 2023 after emails between the parties confirming Ms M was acting for Mr R:

“Thank you for providing Ms M correspondence to us on behalf Mr R.

I understand Ms M has raised concerns over outstanding debt of Mr R with Linkt. Thank you, Ms M for bringing this matter to our attention. I am so sorry to hear about the position and impact on Mr R.

We have investigated the matter fully and note that a demand was issued regarding overdue toll invoice [*****115] with Linkt for vehicle [Y****2-VIC].

However, request was made to our collections by our Linkt Assist to stop the activity on 2nd Oct 2023, another request sent now to confirm if the request has been actioned. We apologise for the inconvenience this may have caused to Mr R.

To investigate further, does Mr R have another vehicle currently or previously registered in his name that there could be an outstanding amount for? If yes, please provide us with the registration number details along with the date of ownership.

I acknowledge Mr R’s frustration and I sincerely apologise for any inconvenience caused. If Mr R has any further issues with Linkt account or toll invoices, he can contact the Customer Resolutions team directly on 1300 381 570 with the reference number [*****128] and we can review this matter further.

Once again, our sincere apologies for any inconvenience this may have caused.

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 M on behalf of Mr R on 18 December 2023 suggested in response to Linkt that:

“Thank you for your email.

Mr R states he had another vehicle registered in his name over 3 years ago but this was in country VIC and he did not travel on any toll roads.

I appreciate your apology regarding this matter, however it does not address the resolution we seek.

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.

Make a recommendation for substantial compensation for the distress and harm caused to Mr R, in the order of the compensation that AFCA can order.

Recommend that Transurban examine and rectify the systemic errors that led to this egregious situation.”

- Linkt on 21 December 2023 sought to respond to Ms M’s email by explaining their processes in these matters stating that:

“We acknowledge Mr R’s concerns regarding receiving further correspondence and our sincere apologies for any inconvenience caused.

Upon investigation Toll Invoice [*****115] was cancelled and collection cease activity request sent on 3rd Oct 2023, it will get updated in collection system within 24 to 48hrs.

To investigate further we recommend Mr R to provide us below details which are mandatory:

1. Another vehicle registration details along with the date of ownership as this information is vital for us to determine if there are outstanding Toll invoices for that LPN.
2. Recent communication received from collections, please attach as Collections are requesting for further clarification, and it will help us to provide feedback.

Once again please accept our sincere apologies for any inconvenience 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 M on behalf of Mr R, by email, responded to Linkt on 2 January 2024 stating that:

“Thank you for your email.

As previously stated Mr R had another vehicle registered in his name over 3 years ago but this was in country VIC and he did not travel on any toll roads.

Mr. R states he is unable to provide any information pertaining to this vehicle.

My complaint is solely regarding the repeated unlawful debt collection after the waiver of the 3 matters located by Linkt Assist had been approved.

I am not requesting investigation into any further matters.

Mr R sent text messages pursuing the debt on the following dates:

10/08/23
27/09/23
04/10/23

Each time this occurred it caused significant stress & confusion to Mr. R who suffers from multiple mental & physical health issues.

On the 10/05/23 Mr R received a LINKT text message & email to his phone for a person called M, again this was extremely confusing & upsetting for Mr R.

Please see below evidence of contact made:

From: Linkt Assist

Sent: Monday, 5 June 2023 4:51 PM

To: M M

Subject: RE: FW: FW: A R

Hi M,

Thank you for providing the license plate number.

I was able to locate 3 outstanding invoices in Mr R's name totalling to \$142.06.

Due to the circumstances outlined in your attachments, I have processed a full waiver on the 3 outstanding invoices.

If you have any issues or questions, please reply to this email or call Linkt assist on 1300 767 865.

Kind regards,

S

Dear Ms M,

We have previously contacted you regarding an outstanding amount owing to Linkt.

As at 10/05/23, your outstanding balance of \$121.44 remains unpaid.

If you have recently paid this amount, thank you for the payment and please disregard this Notice.

If you have not paid the amount, we would like to offer you another opportunity to resolve this matter, by visiting [debt collector website].

If you wish to discuss this matter further, please contact [name of debt collector] on [1300 *** ***] and quote your reference number [*****505].

If we don't hear from you and your file remains unpaid, your file may be escalated.

We would like to be able to resolve this with you directly and look forward to hearing from you.

If you are experiencing financial hardship and need assistance, we are here to help you, simply call us on [1300 *** ***] 8:30am to 8:00pm Monday to Friday AEST/AEDT.

Dear Mr R

Our role here at [name of debt collector] is to assist customers to resolve outstanding payment obligations and to work with you in order to find a practical solution. Our client LINKT MELBOURNE, is showing an outstanding balance of

\$47.60 for unpaid toll invoice(s) for travel on **CityLink**. This amount is made up of the toll amount plus an administration fee for each unpaid toll invoice and can be paid through one of the below methods:

From: [debt collector email address]

Sent: Thursday, 10 August 2023 2:31 PM

To: Mr R

Subject: *** Private & Confidential for A ***

Dear Mr R

Our role here at [name of debt collector] is to assist customers to resolve outstanding payment obligations and to work with you in order to find a practical solution. Our client LINKT MELBOURNE, is showing an outstanding balance of \$47.60 for unpaid toll invoice(s) for travel on CityLink. This amount is made up of the toll amount plus an administration fee for each unpaid toll invoice and can be paid through one of the below methods:

Credit Card

Pay By Credit Card

BPAY

Direct Payment

Trust Account Details:

If you are unable to make full payment, please call [1300 *** ***] quoting reference to make alternative arrangements.

If you have paid this account in full recently, we thank you and ask you to call us to discuss these details.

Kind Regards

[name of debt collector]

W [debt collector website] T [1300 *** ***]

27/09/2023

Hi Mr R. This is a reminder on behalf of LINKT MELBOURNE to pay your overdue Toll invoice for the amount of \$47.60. To pay now click here or call [1300 *** ***] and quote 1.

04/10/2023

Hi Mr R. This is a reminder on behalf of LINKT MELBOURNE to pay your overdue Toll invoice for the amount of \$47.60. To pay now click here [debt collector website] or call [1300 *** ***] and quote"

- Linkt on 10 January 2024 responded to Ms M's email dated 2 January 2024 stating that:

"Firstly, I apologise for the inconvenience caused and for the experience they had since initially raising concerns with Linkt on a few occasions.

I acknowledge Mr R's complaint regarding receiving correspondence for outstanding debt.

However, once the Toll Invoices were waived for vehicle [Y****2-VIC] in October 2023, we have sent request to all the collection teams to cease the activities.

We would request Ms M to contact the Customer Resolution team on 1300 381 570 if any further correspondence received from collections.

Once again we appreciate Ms M and Mr R's patience in this matter and apologise for any inconvenience this may have caused.

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 M responded to Linkt on 11 January 2024 as follows:

"Thank you for your email.

I'm writing to advise the Linkt response provided is unacceptable.

The email below states the tolling invoices were waived October 23 this is incorrect, confirmation of the debts waived was received via email on 14/08/23.

Mr. R is seeking \$3,000 compensation for the harm & distress caused by Linkt.

This is a fair & reasonable resolution, keeping in mind that VCAT can award up to \$10,000 compensation for repeated prohibited debt collection conduct under s46 Australian Consumer Law and Fair Trading ACT.

- Linkt responded to Ms M on 22 January 2024 on the following basis:

"Thank you for your patience while we resolve this complaint for Ms M and Mr R.

I understand Ms M's frustrations related to this situation.

On the 5 June 2023, Ms M received confirmation from the Linkt Assist Team confirming that \$142.06 worth of invoices [*****699], [*****115] and [*****947] for vehicle [Y****2-VIC] were waived in full.

On the 24 August 2023, Linkt Assist confirmed to Ms M that the outstanding debt for vehicle [Y****2-VIC] had been placed on hold with the debt collection agency.

On the 2 October 2023 Ms M alerted the Linkt Assist Team that Mr R had received contact for debt that was placed on hold on the 5 June 2023.

On 11 June 2022 another travel was made with vehicle [Y****2 -VIC] Toll Invoice [*****675] for \$32.71 was issued which was not paid and not included in the above agreement till 2nd October 2023.

Linkt has provided Ms M with two apologies relating to the failure of placing the outstanding debt on hold.

I would like Ms M to note, however that the correct process was followed on the 2 October 2023 and confirm that collections have now ceased.

To resolve this complaint, Linkt have waived full debt I believe this is a fair and reasonable resolution because of Mr R's circumstances. As such, I am not prepared to apply Ms M's request of \$3,000.00 to her client's account.

Linkt have identified where the process failure occurred and have used this as a training and coaching opportunity, however I would like Ms M to note that the outcome of this will remain confidential.

I look forward to resolving this complaint swiftly and thank you for your assistance with this.

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 M for Mr R responded to Linkt on 20 January 2024 on the basis that:

"Thank you for providing Linkt's response.

As stated in my previous email, the response is unacceptable, an apology does not resolve the impact of repeated unlawful debt collection on Mr R's personal wellbeing."

- After some correspondence between the TCO and Ms M for Mr R, Ms M responded to Linkt's response again on 23 January 2024 and stated that:

"Thank you for your email.

Please refer to the email sent on Tuesday, January 2, 2024 1:12 PM for evidence of Linkt's unlawful debt collection conduct.

Also please see my response to Linkt's timeline & explanation below in bold print.

On the 5 June 2023, Ms M received confirmation from the Linkt Assist Team confirming that \$142.06 worth of invoices [*****699], [*****115] and [*****947] for vehicle [Y****2-VIC] were waived in full. **This statement is correct.**

On the 24 August 2023, Linkt Assist confirmed to Ms M that the outstanding debt for vehicle [Y****2-VIC] had been placed on hold with the debt collection agency. – **This contact was due to Linkt/collections pursuing Mr R for the waived debts.**

On the 2 October 2023, Ms M alerted the Linkt Assist Team that Mr R had received contact for debt that was placed on hold on the 5 June 2023. **The debts were not placed on hold – they were waived 05/06/23, meaning they should not have been pursued after this date.**

On 11 June 2022 another travel was made with vehicle [Y****2 -VIC] Toll Invoice [*****675] for \$32.71 was issued which was not paid and not included in the

above agreement till 2nd October 2023. – **This matter should have been included in my original request to Linkt to locate & waive all outstanding matters.**

Please also note, not only was Mr R contacted for payment of debts that did not exist, but he was also pursued for payment of debt not in his name. Evidence of this is included in the email I provided on Tuesday, January 2, 2024 1:12 PM.”

Current Position of Parties

- Mr R through his adviser Ms M wants significant compensation on the basis of the impact that continual contact from the debt collectors has had on Mr R, Mr R stated that he wants Linkt to pay an amount of \$3000 albeit that Linkt has waived administration charges and an outstanding toll charge in the amount of \$142.06 as its settlement offer.
- Linkt states, whilst it understands Mr R is frustrated that this matter has taken some time to resolve, it considers all of the toll charges originally imposed have been imposed on Mr R legitimately. It considers the various interactions with Mr R over the last 10 months indicates its desire to seek to assist Mr R and ultimately settle the dispute. In particular, it notes that this included effectively waiving toll charges and admin charges for a number of trips on toll roads in the amount of \$142.06.
- The offer of Linkt for settlement is the waiver of debts owed by Mr R. 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 Mr R by debt collectors which caused Mr R concern and stress given his 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 Mr R in respect to debts that were not his or debts that had been waived by Linkt. Linkt have acknowledged that their processes have failed to a certain extent here in relation to communication with its debt collectors on these debts. There is no dispute between the parties that Linkt has apologised to Mr R about the unnecessary contact about the waived debts and debts that were not Mr R’s. There is also no dispute between the parties that Mr R 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 Mr R for multiple use of the toll roads in the amount of \$142.06. There is no dispute between the parties that the original toll charges were incurred by Mr R for the use of toll roads.

- In my view, I agree with the adviser for Mr R, it is a concern the number of times that the debt collectors contacted Mr R given his circumstances and the fact that the debts had been waived but also in respect to debts that were not Mr R's (more of this below).

Determination

- I am satisfied that, in the circumstances, Mr R has established grounds or evidence for his complaint that the debt collectors for Linkt contacted Mr R in relation to various debts that were waived or not his debts as part of a communication failure by Linkt with its debt collector.
- In my view, as TCO I have a real concern about the number of contacts made by Linkt's debt collectors to Mr R in respect to debts that Mr R had not incurred or that had already been waived by Linkt. This is particularly in circumstances where Mr R has mental health issues and is being adversely affected by each contact.
- 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 Mr R in respect to the debts that he 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.
- 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.
- Accordingly, on the basis of the above, I recommend that Linkt make a goodwill payment of \$500 to Mr R given the number of contacts made by debt collectors to Mr R 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 Mr R in relation to toll debts including admin fees. The amount of the debts waived by Linkt was in the amount of \$142.06. 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 Mr R by the contact by the debt collectors. Linkt also transparently acknowledged the error and suggested that they had

used the circumstances as a basis of training purposes for their people to seek to improve their systems and processes for consumers.

- I remind the parties that under the TCO process, my decision is not binding on Mr R and that he 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 waived several toll charges for Mr R and have apologised on a number of occasions for delays and the difficulties caused by the process errors with its debt collectors.

Phillip Davies
Tolling Customer Ombudsman

Dated: 19 April 2024