

DECISION

Summary and outcome

- The complainant, Ms S, lived in Sydney. Her initial complaint made in January 2020 was with respect to the amount of approximately \$1,800. A recovery agency was seeking to recover that amount from Ms S and in discussions with them she was informed that most of this outstanding amount related to administration charges. Ms S suggested that this was the case despite her account not displaying this outstanding balance.
- After a number of discussions between Ms S and the recovery agency, she was advised to pay an amount of \$1,400. She paid that amount of \$1,400 for the period January to August 2020 only. Ms S thought that making such a payment put an end to the matter. She then suggested that she subsequently discovered that the amounts paid by her were applied to administration charges. Accordingly, Ms S was required to top up her account on a regular basis to pay for the outstanding toll charges.
- A part of Ms S's complaint was that she wanted to understand what charges related to what trips and in respect to which roadways on which she travelled. She also suggested that Linkt were inconsistent with the amounts that they informed her she owed.
- Linkt's position was that following the transition from E-way to Linkt on 23 August 2020, Ms S's account ****186 has an outstanding balance of \$554.36. This amount has accrued for recent trips matching to the account, along with some of the outstanding toll notices being transferred to the account.
- Moreover, Linkt suggests that there are additional toll notices outstanding for the vehicle C***5T (NSW). Currently, the toll notice amount outstanding with Linkt is \$2,508.27 for travel made between May 2016 and July 2020 while the vehicle was in Ms S's possession. These toll notices include travel made on Hills M2, Westlink M7, Lane Cove Tunnel, WestConnex and M5 South-West.
- During the period January to November 2020, there was various correspondence from Interlink Roads, Linkt and Ms S seeking to clarify the position in respect to the outstanding amounts owed by Ms S, to whom and in relation to travel on which particular toll roads (see further discussion below).

Background

- The complainant, Ms S, first made a complaint to the Tolling Customer Ombudsman (TCO) on 13 January 2020. After the initial complaint there was a considerable amount of correspondence from the parties.
- Ms S, in an email dated 20 August 2020, suggested that she was confused with what amounts were attributable to travel on the M5 and the M7. She understood that some of the charges she had been told were referable to the M5. She wanted to reconcile the amounts. Ms S suggested that no one had explained this to her.
- Advice was sought from Interlink Roads and in an email dated 20 August 2020 they sought to clarify the position with Ms S in relation to the transition of E-way to Linkt and the charges incurred in respect to the various motorways:

“The offer made by Interlink Roads in January 2020 was for trips made on the M5 Motorway. [Ms S’s] email on 13 August is in regards to trips made on the M7 Motorway. Unfortunately, Interlink Roads cannot assist with trips on the M7 Motorway.”

- Linkt provide an expansive response to Ms S on 9 September 2020:

“I understand [Ms S] has spent some time trying to resolve this matter, and I acknowledge she has not had a good experience in the past. In recognition of this, the credit amount of \$146.40 was applied to the Linkt account to reduce the owing balance, and the reduction offer for the outstanding toll notices from the amount of \$2,508.27 to \$835.27 is available as a gesture of goodwill.

As the travel was made these amounts will remain outstanding and payment is required. As [Ms S] has advised she is not currently in a financial position to settle the outstanding amounts, she may be eligible for a payment plan with the Linkt Assist team. If [Ms S] would prefer a payment plan with the Linkt Assist team I can request this for her, however this will be referred at the full outstanding cost. I would recommend [Ms S] consider the reduction offer and let me know if a payment plan is required as I would be happy to offer this at the reduced amount with our Credit team.”

- On 21 September 2020, Ms S responded to the Linkt email:

“I do not agree with the total settlement amount claimed by Linkt in the amount of \$1,243.23 (most recent email indicates that \$835.27 is payable). My settlement offer of \$405.71 was made only to resolve this outstanding issue once and for all despite my current financial position and not agreeing with the amount claimed Linkt.

As you can see from the below email from Linkt dated 9 September 2020, the settlement amount of \$835.27 is payable by me; however, in their initial email dated 9 September 2020, the total amount outstanding with Linkt is \$1,243.23. There is no consistency with their claims and this is something I have been dealing with for the last 9 months as my Toll Account discloses an amount which is not what is claimed by Linkt via email or what was claimed by the debt recovery agency engaged by Linkt. I have provided various evidence and emails regarding the misleading information not only on my account;

however, from discussions with Linkt's staff members and debt recovery agencies. This has been a stressful situation which has resulted me suffering from panic attacks as I have not been able to resolve this and the amount claimed has only increased.

I am no position to pay this amount and as detailed in my below emails, I am currently struggling financially to stay up to date with my bills which has resulted in me relying on my credit card which I currently owe 90% of the credit card limit."

- Ms S, in an email dated 5 October 2020, suggested that she was still unclear as to the exact amounts owing by her to Linkt and what was the basis of the Linkt offer.
- Linkt provided a substantive response on 8 October 2020 stating:

"I can confirm the reduced outstanding amounts are currently as follows:

- Linkt account [****186]- \$428.86
- Toll notices issued to vehicle [C***5T] (NSW)- \$835.27
- Total- \$1,264.13

Please note, the account owing balance has increased as recent trips matched to the account.

I have requested an additional extension with the debt collection agency to allow [Ms S] time to consider this offer. If [Ms S] could please confirm by 06 November 2020 how she would like to proceed. If a payment plan is required, I request that she confirm her preferred payment amount and how often she can make payments so this can be arranged.

The total owing amount with Linkt has been reduced from \$3,085.78 to \$1,264.13. This is our final offer as no further reductions are available for this travel. If [Ms S] decides not to accept this reduction offer, the account owing balance and toll notices will remain outstanding at the full cost and collections will resume".

- Ms S prepared a detailed submission dated 6 November 2020 where she summarised her understanding and the background to the dispute but also the responses to the offer from Linkt.
- In short, Ms S does not agree with the Linkt offer. Ms S suggests that she has been misled by the information provided by Linkt in respect to her accounts and the amounts outstanding for over nine months. She acknowledges that she travelled on the toll roads but suggests that given the information provided by Linkt it is impossible to understand what amounts are outstanding and when these amounts are payable.
- Ms S also acknowledges that Linkt has offered a significant reduction but suggests that the administration charges would have not been imposed by Linkt and incurred by her in these circumstances if Linkt had made clear to her what amounts were outstanding. Ms S, in her submission, also annexed various account statements from Linkt.

- Ms S suggests in this submission that her history is of paying tolls provided she was aware that she owed outstanding amounts. That is, she continues to top up her account but is reticent to top the account up in the present circumstances as she was not sure what charges are being made to her account. Ms S suggests once again she is not in a financial position to pay such costs as her business and her personal financial circumstances have been severely affected by the impact of COVID-19.

Current position of the parties

- Ms S stated her offer to pay the amount of \$405.71 stands. That is, Ms S rejects Linkt's offer of \$835.27 and she effectively refuses to pay any administrative charges on the tolls and will not settle the matter if any administrative charge is proposed by Linkt as part of a settlement sum. Ms S considers that the Linkt offer of \$1264.13 is excessive and not fair given the process she has gone through with Linkt over the various months since lodging the claim.
- Linkt states that whilst they understand Ms S is frustrated that this matter has taken so long to resolve, they consider that all of the charges have been imposed on Ms S legitimately. These charges to Ms S are correct in view of her travel on the relevant toll roads for which they are the toll operator. Linkt also suggests that whilst there was early confusion in respect to Interlink Roads charges over the last several months, their position has been clear and the amounts outstanding and payable by Ms S have also been clear. Linkt also points to the fact that they have reduced the amount outstanding from \$3,085.78 to \$1,264.13 and that is a substantial and significant reduction in the amount of \$1,821.65.
- Linkt considers that an offer of \$1,264.13 including substantially reduced administrative charges is a fair and reasonable offer. Linkt also noted the credit they gave to Ms S during the process (see details above).

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, the matters relating to this decision were complicated by the fact that for part of the period Interlink Roads was involved

in charging Ms S and that was adding to the confusion of Ms S about the tolls and to whom she was incurring charges. This appears to be the reason why there has been some difficulty in resolving this matter.

- Ms S was therefore originally confused as to the amount of charges that were being imposed in relation to travel on the various toll roads. Ms S also has had some difficulty understanding the amount in her tolling account and the manner in which the toll operators charge. However, since September 2020 the position of Linkt has been made clear to Ms S.
- Linkt had originally offered a reduction on the total amount from \$3,085.78 to \$1,264.13. This is a significant reduction on the toll charges and administrative charges. Linkt understood that Ms S was not satisfied with the disclosure process in respect to the amounts owed and hence the current settlement offer of \$1,264.13 as a goodwill gesture. This is a significant reduction. It should also be noted that during the process Linkt provided Ms S with a credit of \$146.40 because she suggests she had had a bad experience with Linkt.

Determination

- I am satisfied that, in the circumstances, Ms S has not established grounds for her complaint against Linkt. Ms S is not disputing the charges that have been validly incurred for the many trips she has taken; merely disputing any charges over and above those which she should have to pay for using the toll roads and the information provided by the toll operators in disclosing what amounts she owed.
- In my view, the confusion largely involves a misunderstanding by Ms S of the various roles and responsibilities of the toll operators. However, I would encourage Linkt to continue to be vigilant in respect to being clear with customers regarding amounts outstanding and the basis of the charges imposed. In addition, this includes continuing to be clear on the arrangements between toll operators and the manner in which that inter-relationship can impact on consumers.
- On the basis of the analysis above, I am satisfied that the settlement offer of \$1,264.13 proposed by Linkt is fair and reasonable in the circumstances. This is particularly the case, given Linkt has substantially reduced the amount of the administrative charges. I am not satisfied Ms S's view that the proposed settlement amount of Linkt is excessive has been established in the present circumstances. However, given Ms S presently has financial difficulties due to COVID-19 and the matter has gone on for some while, I would recommend an appropriate payment plan should be agreed with Ms S given these circumstances.
- I remind the parties that under the TCO process, my decision is not binding on Ms S and that she can seek relief in any other forum.

- In making this Determination, subject to the comments above, I note that the manner in which Linkt's resolution team has engaged with Ms S in respect to the issue in dispute and this complaint more broadly, has been clear, transparent and conciliatory. This is evidenced by their approach to the reduction in charges and the proposing of a payment plan for Ms S. Linkt also provided a \$146.40 credit to Ms S's account during the process.
- 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. In my view the Linkt resolution team has reasonably discharged this responsibility in the present circumstances.
- I note that Ms S has acted in good faith in relation to this matter and acknowledge that she was originally confused by the charges that she owed. She has been clear, thorough and constant in her communications with the TCO and Linkt during this process.

Phillip Davies
Tolling Customer Ombudsman

Dated: 11 December 2020