

Public DEFENDER

John Rolfe

141

The number of people we have helped



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Please help!

I need some legal advice

Fine for staying outside the bar

Tim asks:  
 I was recently served an infringement notice for not leaving the vicinity of a licensed premises. I was allowed entry into the bar initially then I chose to leave to get food, then when I returned they denied me entrance. As I was there purely to watch sport on their TV, I stayed by the window to watch TV. The fine is \$550. Is this excessive? It is my first offence so should I appeal?

Have your legal queries answered on our blog with Maurice Blackburn legal expert Rebecca Gilsenan at noon today



Dear Tim,  
 The maximum penalty for not leaving the vicinity of licensed premises is \$5500. The set penalty for an on-the-spot fine for this offence is \$550. If you committed the offence, then a fine of \$550 is not excessive. However, if you did not commit the offence then you could elect to take the matter to court to try to challenge the conviction or the size of the fine. With this approach comes the chance that the court will increase your penalty and if found guilty you will get a criminal record. If you pay the fine you won't get a criminal record.

Legal information is general in nature and not to be regarded as legal advice by Maurice Blackburn

# Telstra hanging up the phones

THE Communications Minister Stephen Conroy is developing a rule he says will help communities stop Telstra removing public telephones. I have my doubts.

Every day nearly 1000 calls are made to triple-0 from public phones by people who have managed to find one Telstra hasn't gotten rid of.

It's ripping them out as fast as it can. About half the 18,000 not protected by the Universal Service Obligation have been removed in the past five years.

It's because Telstra isn't reaping as much money from payphones, partly due to the rise of mobiles and partly because it has done so little to bring the payphone into the 21st century.

Telstra's revenue from payphones was \$190 million in 1999-2000. In 2009-10 it was \$49 million — a decline of 76 per cent which, while precipitous, is comparable to the plunge in the telco's share price over that time (70 per cent).

The minister's rule would allow people to apply to the Australian Communications and Media Authority (ACMA) to direct Telstra not to remove a payphone. Sounds promising, until you know ACMA's track record of acting on complaints about payphone removal.

In the past two years it has not stopped a single payphone

from being pulled out. You've got a better chance appealing to Telstra. Because of public protest it relented on removing nearly a quarter of the 2000 in the cross-hairs last year.

An ACMA spokesman said it was only an "office of last resort". I couldn't agree more.

It's a pity, both for the public and Telstra shareholders, that the company has been so keen to kill off the payphone.

In a 2008 report leading telecommunications analyst Paul Budde wrote: "In my opinion most payphones have great real estate value for future services. BT in the UK is using them for ATMs and other financial services. It is a real shame that Telstra doesn't share such a visionary approach."

This week Mr Budde told me: "I still believe that this is the case. With so many different developments and so many different applications becoming available some outside the box thinking should result in new business opportunities."

On this front there is finally some hope. In December Telstra began trialling at airports, including Sydney's, a new web-enabled payphone.

Hopefully these will make money, because if they don't then payphone numbers will continue to decline.



Fobbed off: Colin Besant was unhappy with a mobile bought on eBay Picture: Katrina Tepper

## Phone deal didn't ring true

IN SEPTEMBER Colin Besant agreed to buy a mobile on eBay for \$225. He paid the money via eBay subsidiary PayPal.

When the phone arrived at his Minto home it wasn't what the seller promised. He complained but was fobbed off.

So Mr Besant lodged a complaint with PayPal. Through the dispute system the phone had to be returned to the seller.

Mr Besant did so, following the PayPal protocol precisely, only for the company to let him down, too.

Exasperated, Mr Besant contacted me. I went to PayPal and was told that a customer service rep had accidentally emailed Mr Besant instructions for a new dispute system that had yet to begin.

"We don't know how this email was triggered ahead of the official launch. As it was a mistake on our end we will ensure this claim is honoured and Colin receives his money back," PayPal said.

Mr Besant yesterday said: "It was so frustrating. I complied."



## Why we fight for that bit extra.

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