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Advice to motorists after the decision in *ParkingEye Ltd v Beavis* [2015] UKSC 67

By a majority of 6-1 the Supreme Court has today dismissed Barry Beavis's appeal against last April's decision of the Court of Appeal dismissing his appeal from the judgment of the Chelmsford County Court.

Mr Beavis argued that the parking charge of £85 for overstaying was unlawful as a 'penalty' as opposed to a genuine pre-estimate of loss and that the charge was an unfair term for the purposes of the Unfair Terms in Consumer Contracts Regulations 1999 and therefore not binding on him.

The Supreme Court has decided that the charge is not a penalty because it is commercially justified, the reasoning being that such a charge is necessary to manage parking efficiently and deter overstayers. They decided that the charge was not excessive having regard to the level of charges imposed by local authorities. They also decided that it was not unfair because it underpinned a business model whose object was the efficient management of the car park.

This means that motorists who are defending claims by parking companies in the County Court or have appeals to POPLA which are now stayed pending the result of this case, will not be able to raise the penalty and unfair terms points in defence of the claims.

If the law in this area is to change it must now be by Parliament, probably by making an amendment to add a section to Schedule 4 of the Protection of Freedoms Act 2012 which would restrict charges for overstaying to a much smaller sum.

John de Waal QC