



TV CASE STUDIES

CASE STUDY ONE

The Problem

Our client, a well known cable and satellite channel, had a contract to sublease satellite capacity outside the UK.

The satellite provider unilaterally decided to switch to a satellite with a different footprint. While they were prepared to offer our client carriage on the new satellite, they would not recognise the cost and disruption to our client's business, including lost subscribers, that our client would suffer through the change.

Although a well known channel, our client did not have funding for a long drawn-out court case, particularly if it was forced to re-focus its business at the same time. In this situation, too, there was a real fear that our client's bargaining power was being eroded.

Our Advice

We felt that what was needed was a 'short, sharp shock' to redress the imbalance and put our client in a position where it could strike a good commercial deal and protect its business going forward. There was no question that the satellite provider was not in breach of contract - but it was not in our client's interests to be involved in long, drawn-out proceedings with a complicated assessment of damages and an uncertain outcome.

We advised our client that an application for an injunction to restrain the threatened breach of contract should be made immediately. We explained to our client that although the court would be wary of taking on any supervisory role in relation to the running of the business, we anticipated that the satellite company would have to make certain admissions if it was to oppose the application, that could then be relied upon by our client to their advantage.

The Outcome

In order to avoid an injunction being granted, the satellite company made admissions regarding its business plans that we were able to use to our client's benefit. Our client obtained judgement for £28m - only 2 weeks after the writ was issued.

CASE STUDY TWO

The Problem

Our client, Al Jazeera, broadcasts from Doha in Qatar, but accepts live feeds from studios across the world including in London.

Mr Ramy Lakah, an Egyptian businessman, agreed to be interviewed for Al Jazeera's 'Without Limits' programme in a studio in Westminster. From Westminster, the signal was transmitted direct to Doha for uplinking to the satellite from where it was broadcast live, including into the UK, with two re-broadcasts worldwide through the following 24 hours. The programme was in Arabic, the vast majority of subscribers to Al Jazeera being based in the middle east with only a minority population in the UK.

Mr Lakah did not like the line of questioning and the programme terminated early. Nearly 1 week later, an application to the English court was made without notice to Al Jazeera. It was claimed that there was an intention to re-broadcast the programme and that Mr Lakah and his companies were at risk of suffering damage which he estimated would be valued at £500m. The court granted the injunction, despite Al Jazeera not being represented.

Our Advice

It is not for nothing that England is known as the libel capital of the world. Although the scenario sounded just like a question in a law exam, the English courts have refused time after time to prevent foreign businessmen from bringing libel claims in the UK courts against publishers and broadcasters based overseas. Undeterred, however, we advised Al Jazeera that they should authorise us to make an application both to have the injunction discharged and to oust the jurisdiction of the court.

The Outcome

Although the process took the best part of a year - not least because Mr Lakah made an application during the course of the proceedings to commit our clients to Pentonville Prison for contempt of court, even though they were not even within the jurisdiction - the claims were ultimately struck out in their entirety, following a number of reported decisions which determine what must be established for service to be effective and for the courts to accept jurisdiction. Mr Lakah was ordered to pay the legal costs.