



So you think you're in Contract!

The essence of a contract is an agreement. To be binding there must have been a firm agreement. An essential element to any contract is certainty of terms. A couple of high profile recent cases have highlighted this.

In the case of *Jordan Grand Prix Limited –v- Vodafone Group plc*, Eddie Jordan's company sued Vodafone in relation to an alleged sponsorship deal worth around \$150m over 3 years. Jordan claimed that the contract had been struck during the course of a telephone conversation lasting some 10 to 15 minutes supplemented by some further meetings. The telephone call had been between David Haines, the then Global Director of a Vodafone group company, and Eddie Jordan and had been made by Haines from a mobile phone during a car journey in Germany when it was dark, raining, heavy traffic and with a breaking signal. Jordan claimed Haines used the phrase "Eddie, stop, stop, you've got the deal". Vodafone denied that Haines had used these words and that this conversation or any subsequent meetings formed the basis of any sponsorship contract. They also claimed that, in any case, Haines had no authority to commit Vodafone to contract. The judge held in Vodafone's favour. The terms were too uncertain.

Another case involved Marks & Spencer. Bairds had been a principal supplier to Marks & Spencer for 30 years when, without warning, Marks & Spencer ended the relationship. Baird contended that they should have been given reasonable notice of termination of the contract amounting to 3 years on the basis that this was a well established commercial relationship and the conduct of Marks & Spencer implied a term of "continuity" into their contract. The Court did not agree. The Court held that there was never any agreement to reach or even set out the essential principals which might govern any legally binding long-term relationship.

Lessons need to be learned from cases such as these. It is clearly risky to make assumptions in any commercial relationship no matter how good it seems or how long it has lasted. If you want to enforce terms make sure you have a contract and one that includes in no uncertain terms the provision you want to enforce. Get it down in writing!