

**THE HIGH COURT
DUBLIN**

JRM SPORTS LIMITED TRADING AS LIMERICK FOOTBALL club

Case No. 359P/2007

PLAINTIFF

**AND
THE FOOTBALL ASSOCIATION OF IRELAND
CUMANN PÉILE NA HÉIREANN**

DEFENDANT

Judgment by Mr. Justice Clarke on Wednesday, 31 January 2007

1. Mr. Justice Clarke: In these proceedings the Plaintiff company, ("Limerick FC"), seeks a number of orders which, in substance, are designed to ensure that Limerick FC is permitted to play in the League of Ireland for the forthcoming season in 2007, or alternatively to prevent any other team playing in their stead, pending the outcome of these proceedings. It will be necessary to return to the type of orders sought in the course of this judgment in that the form of the orders sought is of some relevance to the issues which I have to consider.

2. The application that is presently before the Court seeks an interlocutory injunction designed to secure those orders on a temporary basis pending a trial of the case. Therefore, if successful, the orders sought would require either that Limerick FC be permitted to play in the League of Ireland for the forthcoming season (which is due to start in March) or alternatively that no other team be allowed take their place in that season, it being the case that it would be impractical to alter the composition of the league in the course of a season.

3. The procedural history of the case commenced on 16 January of this year when Limerick FC made an application to this Court, Peart J, for an interim order. That order was given until what was then the following Monday, 22 January 2007. The order prevented the Defendant, ("the FAI") from:

1. Negotiating or attempting to negotiate or contracting or attempting to enter into any contract and/or agreement with any third party for the granting or issuing of a licence, whether permanent or temporary, or otherwise to carry on and carry out the functions of a Football Association of Ireland member club in place or instead of Limerick Football Club.
2. Substituting or replacing or attempting to substitute or replace the Plaintiff herein trading under the style and title of Limerick Football Club as the Football Association of Ireland club for the City and County of Limerick pending the outcome of the proceedings.
3. Convening and holding a signing participation agreement in the absence of representatives of Limerick Football Club signing any new or further club or other identity in lieu of the Plaintiff.

4. In substance it will be seen that the order sought on behalf of Limerick FC, and given by the Court on 16 January, prevented the arrangements then contemplated for setting up the league for the current season, by preventing the signing of the participation agreement going ahead and also prevented the FAI from exploring whether any other club might be admitted into the League of Ireland for this season. It will be necessary to return to the circumstances in which that order was given in due course because one of the complaints made by the FAI is that the Court was seriously misled on the occasion when that order was sought and given.

5. The background to the circumstances that gives rise to the dispute between Limerick FC and the FAI stems in part, from the historical way in which football was organised in Ireland. Historically the FAI did not organise the senior divisions of the league of Ireland which were operated under the auspices of a separate body; however, in recent years, in substance, the FAI have taken over the management of the league and it is clear from all of the documents put before the Court that as part of that process the FAI has embarked upon a procedure of attempting to introduce a higher level of professionalism into the administration of football in Ireland and has made clear that it intends imposing tightened processes for that administration. In that context it is important to note that all of the clubs playing in the League of Ireland signed up to new arrangements in the middle of last year and entered into what are, in substance, contracts with the FAI to comply with new and tightened rules, regulations and procedures.

6. Before going on to the specific facts of this case, I should also note that having had the opportunity to review relevant portions of those rules, that is to say the rules concerning the licensing of clubs which is at the heart of these proceedings, it seems to me that it can be fairly said that they are not couched in legalese, jargon or technical terms and they are written in a way that ought to be capable of easy understanding by anyone who holds themselves out as having a position of any significance in the administration of football or football clubs in Ireland.

7. It is now necessary to turn to the facts which give rise to the dispute between the parties. It is clear that amongst the measures adopted by the FAI for the purposes of improving professionalism and tightening up the processes of the administration of football in Ireland included a tighter licensing régime to be put in place for the season 2007. It is clear that that fact was brought to the attention of all clubs and there is ample correspondence passing between the FAI and those in charge of Limerick FC from which it ought to have been very clear to those in charge of Limerick FC that those processes were being tightened up.

8. Furthermore it ought to have been clear that as the licensing application by Limerick FC (for the licence which would be necessary for them to play in the League of Ireland in the 2007 season) was being considered there were significant problems with the application, which at least gave rise to the risk that the licence sought and which was, as I indicated necessary for Limerick FC to be able to play in the League of Ireland, might well be refused.

9. I should note at this stage that it is commented in fairly strong terms in a number of the affidavits filed by the officers of Limerick FC that they were shocked at the refusal of the licence. I have to say that I find it very difficult indeed to understand how anyone who had read the correspondence received from the FAI could have been so shocked unless they had placed their heads very firmly in the sand and had refused to read or understand what was written in clear terms.

10. In any event, the licence was refused by the appropriate body, that is to say the licensing committee of the FAI, and in those circumstances Limerick FC had a right of an appeal to the appeal body. The rules required that Limerick FC be informed of that right of appeal and that they were so informed. An appeal was put in to the appeal body. Again, it seems to me that the rules of the FAI applicable to the appeal body are perfectly clear and are not couched in, as I have indicated, legalese or jargon which would lead any reasonable person reading them to have any doubt about what they mean. It is clear beyond any doubt, and is stated on a number of occasions in those rules, that the sole purpose of the review to be carried out by the appeal body is to look at the process that was

carried out by the licensing committee and decide was that fair and appropriate, and also to consider whether the overall result was a fair or reasonable result. Therefore, in substance there were two types of appeals that could be brought, or indeed a combination of both: Firstly, it could be suggested that there was some unfairness in the way in which the licensing body went about its business and clearly if the appeal body was persuaded that that was so it had appropriate powers to remedy that wrong. Secondly, it might be suggested that while the process was fair and the conclusions on what actually occurred by the licensing committee were reasonable, nonetheless the licensing committee had taken a too severe review of whatever failings might have been identified.

11. Those parameters were set out in clear terms in the rules and it is again difficult to understand how anyone who had read the rules would not have been immediately aware of the sort of appeal that could be brought. In those circumstances it is again very difficult to understand the repeated references in the affidavits filed by the officers of Limerick FC to a complaint to the effect that they thought that they would be able to produce further evidence to the appeal body. If they had taken the trouble to read the rules it would have been abundantly clear that they did not have that entitlement. Certain consequences flow from the manner in which the case has been put to date to which I will have to return in due course.

12. It is now necessary to turn to the specific complaints made by Limerick FC about the process. I use the term "complaints" advisedly because many of the points raised seem to me, on the evidence currently before the Court, to be either factually inaccurate, vague, based on a misunderstanding of the process or amount to a general complaint that they have been harshly treated. It is firstly important to note that the arrangements between Limerick FC and the FAI are, as was in my view correctly argued by counsel for the FAI, a contract between the parties. That contract is to be found in the documents signed by Limerick FC which make it clear that they accepted that they knew and understood the rules to which they were signing up. I will have to deal in due course with whether they in fact did know and understand those rules, but the one thing that is clear is that they signed a document making it clear that they said they understood the rules. If they signed such a document without having read the rules and without having familiarised themselves with the process they were signing up to, then any consequences that flow are entirely their own fault.

13. I am prepared to accept, for the purposes of argument at this stage, that there may be implied into the contract between Limerick FC and the FAI an obligation that the FAI will comply with at least some of the rules of natural justice when considering applications that could have adverse effects for clubs such as Limerick. However, there is no doubt that any claim that can be made in a Court must be confined to an allegation that the FAI are in breach of their side of the contract, are in breach of their side of the bargain. Even if that contract is taken to bring with it an obligation to act procedurally in a fair manner, the contract makes it clear that the body that is to decide on the merits as to whether a club is to receive a licence is the FAI and its appropriate committees and appeal boards and not the Court. I want to make it perfectly clear that in accordance with the long established jurisprudence of this Court it is not for the Court to consider whether the view taken by either the licensing committee or the appeal board was harsh, went too far, was harsher than perhaps had been applied in previous years. Those are matters for the FAI and its appropriately designated committees and boards. They are not for the Court. This is not an appeal to the Court. The Court has no role in deciding the merits or otherwise of who should be licensed.

14. Insofar as any case can be made to a Court that the ultimate decision to refuse a licence was unduly harsh, it could only be made, at the high watermark of the position that might be adopted by a refused club, on the basis of the jurisprudence of this Court concerning irrationality as identified in the Supreme Court decision in *O'Keeffe -v- An Bord Pleanála*. What is clear from that decision, and has been applied in a whole range of circumstances to decision making bodies such as the FAI, is that the Court does not intervene unless the decision made could not reasonably have been made on the materials that were available.

15. There was ample material before the Licensing Committee (and now put before the Court) which would have allowed the licensing committee to take the view that it was not appropriate to licence Limerick FC. It seems to me that the decision made by the licensing committee and by the appeal board was, therefore, well supported by the documented failures of Limerick FC to comply with the process. It is not for me to decide or indicate a view as to what I would have done had I been the appeal body. My role is simply confined to ensuring that the decision was one that was open to the relevant bodies and I conclude that it was.

16. The remainder of the complaints concern the process that was engaged in and place particular focus on the process before the appeal board. The complaints are numerous, but most of them can be readily dismissed. Firstly, a number of them are, and indeed some of them are conceded to be, factually inaccurate. Firstly, there is the question of the nature of the hearing before the appeal board which I have already addressed. While a number of complaints are made in the affidavits about what was expected to be the case when the representatives of Limerick FC went to the appeal board, it is absolutely clear that if they had taken the trouble to read the rules they would have known that what they were expecting was not going to happen. If they had not read the rules, then that is upon their own head. Those complaints are simply factually inaccurate.

17. Secondly, complaints were originally made about the composition of the board. Apart from the clear factual inaccuracy that was contained in the original affidavit to the effect that the board was chaired by a Senior Counsel, (it was not) I frankly find it difficult to understand the nature of the complaint made which seems to regard it as a criticism of the FAI that the appeal board was "a fully composed appeal board".

18. It is hard to see what else could have been expected. Limerick FC had put in an appeal in accordance with the procedures of the FAI. The FAI procedures said that there was to be a properly composed board and I frankly cannot understand how it is an issue of complaint that Limerick FC were met with a properly composed board.

19. Thirdly, it is suggested by the representatives of Limerick that they did not have any adequate prior knowledge of the difficulty in which they found themselves concerning the risk of not being licensed and that they were taken aback by the decisions of the two bodies. I have already indicated that anyone who read the correspondence received by Limerick with even something approximating to an open mind would have been clear that Limerick were in difficulty and that there was at least a risk that the licence would be refused. Again that complaint is simply factually inaccurate.

20. Another series of complaints can at best be described as either vague or based on a misunderstanding of the rules. There are suggestions put in the vaguest of terms about assurances that were given or indications that were given as to aspects of the process. It is acceptable in interlocutory applications, because of the urgent nature of the application and the fact that affidavits have to be filed which deal with all of the relevant facts, for those swearing affidavits to give hearsay evidence and sometimes not to give the level of detail that might be expected if a case goes to trial with witnesses. Nonetheless it is not acceptable to simply state that the deponent has received an assurance from an unnamed person and in vague and indefinite terms. Those complaints are simply far too vague to be treated as substantial.

21. Secondly, the suggestion is made that other clubs were in financial difficulty. There seems little doubt that that is so. Indeed, one

would hardly have needed evidence in this case to be aware that from time to time a number of clubs, including some of the leading clubs in the League of Ireland, have suffered significant financial difficulties. Indeed it might well be said that that background itself forms the backdrop for the need to introduce the higher level of professionalism and compliance with process that underlies the attempts being made by the FAI at the present time. However it seems to me that under this heading the representatives of Limerick have misunderstood the case being made by the FAI. It is not the case, and a reading of the documents makes this clear, that the FAI are suggesting that the reason why Limerick FC was not licensed was because the Club was in financial difficulties. The only reason why financial difficulties are raised by the FAI is in the context of the legal question known as the balance of convenience which the Court may have to address as part of an application such as this and where the Court has to consider what would happen if it were to give an injunction at this stage, but it were ultimately to turn out that the injunction was not properly given when the Court had an opportunity to fully consider the case at trial. In those circumstances, there would be, in the ordinary way, an obligation on Limerick to compensate the FAI for any losses incurred and the question of its ability to pay any such losses is therefore a relevant factor in my consideration. It was not and does not appear to have been an issue in itself which led to the refusal of Limerick's licensing application and it is simply wrong to state that the FAI took into account the financial weakness of Limerick in coming to the conclusions which it did. It is fair to say that some aspects of the financial management of Limerick were a factor. Reliance was placed by the licensing committee on the fact that Limerick had seriously failed to comply with its obligations to submit management accounts and also did not at the time of its application, have in place an appropriate financial officer. It was suggested in the course of the hearing that these were merely administrative matters. It seems to me that they go much further. Attention was drawn in the course of the replying affidavits to the fact that, in the course of the last season one club disappeared, for financial reasons, in the middle of the season. Apart from the commercial consequences of such an event for the running of the league, the sustaining of sponsorship and the like, there are also sporting consequences of such an eventuality and it clearly is in neither the commercial nor the sporting interests of the FAI or indeed anyone else involved in the administration of football to contemplate clubs disappearing in the middle of the season. Therefore ensuring that, while perhaps in some financial difficulties, clubs are at least able to live from hand to mouth is a legitimate concern of the FAI not just for commercial, but also for sporting reasons and it is that aspect of the failure of Limerick to provide information to the FAI that would allow the FAI to form a judgment on those matters that was one of the grounds for refusing the licence. Therefore, the complaints that place reliance on the fact that other clubs have undoubtedly had their own financial difficulties are misplaced.

22. A further complaint is made concerning the fact that when the officers of Limerick attended before the appeal board they were only asked questions by the board as to whether they agreed that the licensing committee had carried out its procedures and applied the rules in an appropriate way. These matters were undoubtedly some of the issues that had to be considered by the board. It is stated as a complaint that other questions were not asked concerning whether the "punishment", to use perhaps an inaccurate term, of refusal of the licence was too severe given the failings that had been established. It seems to me again that those complaints misunderstand the process. Limerick had been refused a licence. It was for Limerick to appeal. The basis upon which it could appeal was set out clearly in the rules. It was not for the board to ask it questions, though it obviously could if it wished, it was for Limerick to put forward its case. The fact that certain questions were not asked by the board does not mean that the board did not consider all of the relevant matters. There is no evidence that Limerick were refused an opportunity to say what they wanted. Insofar as the Board seems to have expressed a view that some matters advanced were irrelevant the Board would seem, on the evidence currently before the Court, to have been correct. That leads to the one issue where there is at least a factual basis for a possible claim made by Limerick FC and in fairness to counsel for Limerick it was on this issue that he focussed and it is the issue with which I will have to deal.

23. The rules of the FAI concerning the conduct of appeals make it clear that there is to be a report which is to go to the appeals body and is to be given to each member of that body and the appealing club, five days in advance of the hearing. Two factual issues arise in respect of that report. Firstly, it is common case that it was not sent out until the day before the Appeal hearing; however, that fact has to be seen in the context of the agreement reached between the FAI and Limerick FC that the appeal hearing would be brought forward and it seems to me that it necessarily follows from the bringing forward of the appeal hearing that the five day's notice could not have been provided because it would not have been possible for the report to be with Limerick five days in advance of the expedited hearing that was given.

24. The second issue concerns the fact that it would appear, on the evidence currently before the Court, that the relevant report was e-mailed to the officers of Limerick FC on the day before the hearing at a time after they had left to travel to Dublin for the hearing the next morning. It is said they did not receive or see the report until after the hearing had concluded. That is an issue to which I will return in due course, but it seems to me to be, in reality, the only issue in the case.

25. Before going on to consider that issue, it seems to me that I need to address the question raised by counsel for the FAI who places reliance on the fact that much of the case, and in particular the case originally made by Limerick when it brought an application before this Court for an interim injunction, was factually inaccurate. It is certainly the case that much of what was contained in the original affidavit which persuaded Peart J to give Limerick an interim order was factually inaccurate.

26. I should note that the affidavit in question was sworn by Limerick's solicitor, but it has been made clear that no possible criticism could be made of him in that he was clearly swearing to facts which were not within his own knowledge and was therefore swearing to facts of which he had been informed by his clients.

27. The two possible explanations for the inaccuracies are:

That Limerick's solicitor was deliberately given a wrong account of much of the important factual basis for the claim which he then, understandably, incorporated into his affidavit, or alternatively that the officers of Limerick knew so little about the process in which they were engaged that they were in the nature of innocents abroad and had a complete misunderstanding of what was going on leading to them to inadvertently give wrong instructions to their solicitors.

28. Both of those explanations have consequences. The first matter which I need to address is the law that applies in relation to applications to the Court where only one side is represented. It is clear from two decisions which I have given in the last two years in the cases of *F. McK -v- DC* [2006] IEHC 185 and *Bambrick -v- Cobley* [2005] IEHC 143 that there is a clear duty on any party who comes before the Court without the other side being notified, to put before the Court not only the facts that suit their case, but also any facts that might influence the Court in refusing their application. The reason for that rule is set out in those cases, but it only stems from common sense.

29. Allowing people to go into Court and get an order without the other side being told in advance is a departure from the normal rule that both sides are entitled to be heard. It is a necessary departure in emergency situations, but the price which a party pays for being able to do it, is that they have an obligation of what is called in the cases 'candour' and which means simply that they have to put all the cards on the table. It is manifestly clear that not only were not all the cards put on the table in this case, but that some

of the cards were in fact distorted. It is clear in those circumstances that the Court has a discretion to refuse an order which might otherwise properly be given on the basis that parties have abused their right of access to the Court by, in substance, misleading the Court by not putting forward all of the relevant facts.

30. As I indicated in paragraph 3.4 of my judgment in Bambrick, the three principle factors which the Court should take into account are firstly the extent or materiality of the matters that are misstated or omitted; secondly, whether the omissions were deliberate or accidental and, thirdly, the question of whether an order should in any event be given having regard to all the circumstances of the case. It is impossible to avoid the conclusion that the omissions in this case were significantly material. At a minimum, it must be the case that there would have been significant doubt as to whether Peart J would have given the order on the 16th had he been told the full facts and it is equally clear that he was not told the full facts and that indeed some of the facts that he was told were simply wrong.

31. The question of the deliberateness or otherwise of the circumstances that led to Peart J being told inaccurate or misleading facts, is one on which it is impossible for me to reach a definite conclusion at this stage. For the purposes of this application I am prepared to accept that the officers of Limerick just did not know that what they were saying was inaccurate, but there are consequences of that finding. If they did not know that what they were saying was inaccurate then it follows that they did not understand the process that is clearly set out in the rules. If that process did not live up to their expectations it was because they had failed either to read the rules or to read them with any degree of care.

32. In those circumstances it seems to me that much of the argument put forward must fall away in that the only basis upon which Limerick FC can survive the complaint made by the FAI that they deliberately misled the Court is that they just did not apply their minds to the process with which they were engaged, had their head in the sand and did not take the trouble to read the rules of the process with which they were involved. I have to say that I was myself given the papers in this case the night before and read through them without having seen any of the documents before and yet that process was blindingly clear. Now, I appreciate that sometimes it may be easier for those with legal training to read documents and rules and understand them, but it seems to me that the way in which these rules are set out are such that anyone who had taken the trouble to read them would have been well aware, at least in general terms, as to the process with which they were engaged.

33. I now come to the one point which I indicated it would be necessary for me to return to, and that is the report to the appeal board. A number of comments need to be made. Firstly, the likely existence of that report and the fact that it should be given to the appealing club is again clear from the rules so that if the officers of Limerick had read the rules and did not in fact have the report prior to the meeting then they should have known that fact and should have raised that question with the appeal board. It would have been the simplest thing in the world for them to say 'we haven't actually got the report' and doubtless in those circumstances the fact that it had been e-mailed to them the previous day but had not come to their attention would have been revealed and an appropriate adjournment of the hearing could have taken place. Instead, the affidavits are full of constant references to the fact that Limerick had looked for minutes and had not got minutes. It is absolutely clear that minutes are a very different thing from the report. It is again not a technical or jargon term, but the minutes of a meeting are a recording by the secretary or other officer of the body concerned of what happened at the meeting. Sometimes minutes just record decisions; sometimes they record the debate. The report in this case, if you read the rules, is perfectly clearly a document produced not only after the meeting of the licensing committee, but after an appeal has come in because it is meant to comment on both. It is meant to say 'here is what the licensing committee decided, here is what the appeal is about' and put forward the relevant materials to the appeal body. No-one could be under any misunderstanding that the report was not the minutes. Minutes were asked for, they were not given. There was no obligation to give minutes. Minutes could, for example, reveal the fact that there had been a disagreement on the licence committee with some taking one view and some taking another. An appealing club is not entitled to that information. Limerick FC was entitled to the report. The report had been sent to it. It ought to have known that it should have had a report and yet did not raise the question. It seems to me, therefore, that the lateness of the sending of the report was in accordance with the agreement between the parties that there would be an expedited hearing and the fact that Limerick had not seen the report is due to its own fault in the context of the fact that it knew or should have known that there would be such a report and did not ask for it. Indeed Limerick did not make appropriate arrangements to ensure that anything that arrived for them after they left for Dublin was forwarded to them in the context of an undoubtedly expedited hearing when it might be expected that documents would arrive up to the last minute.

34. Finally, I should say that it seems to me that there was nothing in the report which went beyond the materials that were already obvious to all parties from the text of the letter sent recording the decision of the licensing committee and the appeal itself. While it is true to state that, in superficial terms, as noted in the affidavits, the report runs to three pages and is longer in form than the letter setting out the reasons for the refusal of the licence, it is clear on any reading of the report that the issues referred to in the report are the same issues that appear in the letter noting the refusal with the addition of reference to the matters that Limerick itself put up on the appeal and sometimes adding some detail in circumstances that could not have given rise to any misunderstanding. For example, a significant portion of the additional material in the report simply sets out the details of the calculation of the amount of fines that were due by Limerick, but there was never any dispute but that those fines were due so the calculations did not really add to the case. The only issue which Limerick raised under that heading in this appeal was that it, in effect, sought time to make the payment of the fines. It does not seem to me therefore that in any event having sight of the report could have added anything to the ability to Limerick to present its case at the appeal. Reliance was placed on the fact that the report sets out the five criteria (taken from the rules) which the board would be required to consider, but of course those criteria are set out in exactly the same terms in the rules themselves and if the representatives of Limerick FC had taken the trouble to read the rules then they would have known those five criteria in any event.

35. In those circumstances I am not satisfied, on the evidence currently before me, that Limerick FC have made out any case that would entitle them to succeed in these proceedings and in those circumstances and on those grounds alone it would be appropriate to refuse an interlocutory injunction.

36. Secondly, if I am wrong in that view, I would need to consider the question of whether damages would be an adequate remedy for either side. I am not satisfied that damages would be an adequate remedy either for the Limerick or indeed for the FAI. Obviously there are important sporting considerations involved on both sides that cannot easily be converted into money and that leads me to the third question which I should address in case I am wrong in relation to the other views which I have taken and that is the balance of convenience.

37. Under this heading what I need to consider is the relative consequences of, on the one hand, giving Limerick an injunction and it turning out, when there has been a full hearing, that it was wrongly given, or on the other hand refusing Limerick FC an injunction and it turning out after a full hearing that the club was entitled to it. In that context I do take into account and agree with what is said in the final affidavit sworn in these proceedings by Mr. Drew of Limerick FC where he draws, legitimately in my view, attention to the fact that there is more than simple commerce involved in running a football team and that there are interests at stake which go

beyond the commercial interests of a company running a football team. I think there is no doubt that that is true and it is an appropriate consideration to be taken into account by any Court that is faced with a dispute arising in a sporting context. While many sports, and certainly all professional sports, have commercial interests involved, there are also many other interests involved which go beyond the commerce. Indeed, even commercial entities in the sporting field frequently are principally there not for the purposes of making money but because of a love of the particular sport concerned. It seems to me that that consideration also applies to a body, such as the FAI, which is charged with attempting to promote and manage a sport not only for an individual club but for all other clubs and all of those who have an interest in the sport concerned. A significant weight has to be attached in any balancing which the Court has to engage in under the balance of convenience to allowing major sporting bodies to get on with the job of administering the sport with whose governance they are charged. That is not to say that such bodies are above the law. Clearly if they have been in breach of their legal obligations then the Court must intervene. However in considering whether it is appropriate to interfere, on a temporary basis, with what would otherwise be the proper administration of the sport concerned then it seems to me that the Court has to regard any such significant interference as a matter of importance. This will be so particularly where the interference will have more than a minimal short term effect. If every time a party was able to pass the relatively low threshold of suggesting that it had a legal case against a sporting body and was able to interfere with the way in which that sporting body carried out the management of the sport on that basis it is likely that the administration of major sports would grind to a halt. Therefore, it seems to me, that the Court has to place a significant weight in the balance of convenience on factors such as the overall effect of the giving of the order sought on the proper administration of the sport concerned.

38. In this case it seems to me clear that what is, in substance, being sought is a mandatory order. Limerick does not have a licence. It says that it should have a licence and it wants to persuade the Court that the Court should direct that it get a licence. But the fact is that by intervening at this stage the Court would be imposing on the FAI an obligation either to let Limerick in and allow it play in the current season contrary to what (in the FAI's view and it is, on the evidence, at least a sustainable view) is in accordance with the best interests of the sport. To impose that is not simply a matter of no consequence. It means that the league has to go ahead for an entire season on a basis which those charged with managing the league has decided is not the way in which it should go ahead. In those circumstances, even if I had been satisfied that there was a fair issue to be tried, I would not have been prepared to grant an interlocutory injunction because it seems to me the balance of convenience would have been against it.

39. Therefore, in summary I have come to the view that the conditions necessary to continue this injunction under any of the relevant headings do not exist. I refrain from refusing an injunction on the basis of the fact that the Court was undoubtedly significantly misled on the occasion of the interim application on the basis of the possibility that that may have been inadvertent even though serious and more importantly and in addition on the basis that it is unnecessary to reach such a harsh conclusion having regard to the fact that I have come to the view that the injunction should not be granted in any event.

40. In those circumstances I propose refusing the interlocutory injunction and the interim order made by Peart J is, therefore, clearly spent and the FAI is free to deal with matters in accordance with the decisions of its licensing committee and appeal board.