

Tribunal sides with Honduran soccer federation

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A sole arbitrator in the US has absolved the Honduran national soccer federation, Fenafuth, of violating its contract with a sports promotion company that marketed media rights for its teams.

The arbitrator, in Miami, Florida, said Fenafuth had negotiated in good faith with Traffic Sports USA to extend a marketing contract, before eventually seeking out other potential purchasers for its media rights.

Traffic Sports argued that the agreement, signed in 2000, allowed it to opt for a six-year extension on expiry. The arbitration focused on whether that was an absolute right, or contingent on the company making a competitive offer.

Says **Carlos Gonzalez**, a partner at **Diaz Reus Rolf & Targ LLP** in Miami and counsel to the federation: "Traffic Sports argued that it had an absolute right to extend the contract when it expired in 2006. But the arbitrator found the extension option amounted to a mere invitation to bid, and the federation had every right to reject Traffic Sports' terms."

The tribunal struck out TrafficSports damages claim early in proceedings – for reasons not disclosed in the award. The specific performance claim has now met the same fate.

Initially the soccer federation had to be compelled to arbitrate by a state court. Preliminary litigation centred on whether the arbitration should be governed by the US Federal Arbitration Act or the Florida International Arbitration Act. The arbitration clause was silent on the point, stipulating only that the arbitration should take place in the city where the claimant was headquartered pursuant to "applicable norms and laws" applied in business in the locality. Traffic Sports is based in Miami.

Gonzalez says he was personally disappointed with the courts' finding that the state act should apply, despite the international nature of the proceedings. "The case highlights that there is still confusion and misunderstanding about the interplay of the federal act and competing state legislation," he says. "In my view, state laws of arbitration, however sophisticated, should not displace the federal laws unless the parties specifically incorporate them in their agreement."

Allowing domestic courts to decide the governing law "risks crossing the fine line between enforcing a contract and re-writing it," Gonzalez says. It also deprives parties entering international agreements of legal certainty, he notes.

Bob Allen, of Robert Allen Law in Miami, counsel to Traffic Sports says: "Fenafuth lost its year and a half long fight against arbitration in the US. But, ironically, it then obtained a favorable ruling from the arbitrator." Allen adds that Traffic Sports is examining its options "as it disagrees with the arbitrator's conclusion."

Arbitral hearings took place over three months, concluding on 28 March. The arbitrator applied the international rules of the American Arbitration Association. Fenafuth is run by former Honduran president Rafael Callejas. The federation's media rights have now been licensed to multiple other parties in the US and abroad.

Arbitral tribunal

- Judge David Tobin

Counsel to Traffic Sports USA

- Robert Allen Law

Partners Bob Allen, Tom Farrar and Paul Feltman in Miami

Counsel to Federacion Nacional Autonoma de Futbol de Honduras

- Diaz Reus Rolf & Targ LLP

Partners Michael Diaz, Gary Davidson and Carlos Gonzalez in Miami, assisted by Brant Hadaway