



# Sales Promotion Specialists

Don Marketing UK Ltd.  
St. Andrews Castle  
33, St. Andrews Street South  
Bury St. Edmunds IP33 3PH  
Tel: 01284 388816  
Fax: 01284 388308  
E-mail: jad@don-marketing.com  
Web: www.don-marketing.com

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The Rt. Hon. Tony Blair MP  
Prime Minister  
10 Downing Street  
London

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Dear Prime Minister

I am concerned at the lack of redress available in the event of non-performance of the "codes of practice" and "service standards" which are being published by numerous companies, organisations, and public utilities, including the Post Office. The government has itself issued a "Citizens Charter". They are all chock full of pledges.

These solemn pledges are being showered on the UK public like confetti, and apparently have about as much value, as they apparently have no legal standing whatsoever. They appear to be totally unregulated. Consequently, if the issuer of a code of practice chooses not to stand by its pledges, the public has no legal redress or right of hearing by any independent third party. As matters stand, the whole concept of a "code of practice" is a PR person's dream. An avalanche of promises, and all without any independent accountability.

I discovered this totally unsatisfactory situation during the course of bringing a series of "David and Goliath", High Court Actions against Shell, for breach of confidence and/or breach of contract. It has been a long drawn out battle which would have been cut short if Shell had upheld its Statement of General Business Principles, which require **honesty, integrity and openness** in all its dealings. To be fair to Shell Transport, its former Chairman, Sir John Jennings, did intervene on my behalf on a number of occasions, but only after I had resorted to extreme measures to put my case.

Shell has settled in our favour the first three High Court Actions that my company brought against it. I am now involved in a fourth claim. During the course of prosecuting the latest action, I have pointed out to Shell that certain Senior Directors and Shell Managers have acted in flagrant breach of Shell's core principles. Mr Wiseman, the Legal Director of Shell UK has confirmed that similar to a bet placed with a bookmaker, the pledges are **binding in honour only**. There is apparently no redress of any kind, legal or otherwise. I say this after seeking advice from Leading Counsel and speaking to numerous regulatory authorities of every conceivable kind.

Apparently Shell is free to disregard its pledges of honesty, integrity and openness whenever it suits them, which in my experience, is very often. In this connection, I attach a copy of a document entitled "**An Insight Into Shell**".

On initial examination, "codes of practice" appear to provide a free guarantee of ethical conduct and good service. They encourage people who are keen on ethical business operations to do business with or even purchase shares in the relevant companies. There is evidence (from the Co-op Bank) that this is the case. But unless such codes are backed up by law, or by an independent compliance authority, they are worse than useless, as they can give people a false sense of security.

Even the BBC has joined the fray by publishing a "Statement of Promises to Viewers and Listeners". I have therefore sent a copy of this communication to an even higher authority - Anne Robinson of Watchdog fame (who may be interested from a consumer standpoint regarding certain information in the attached document). I hope that one of you will take up this important issue, which effects every one of us as we go about our lives.

Yours sincerely

John Donovan  
Managing Director

# **A UNIQUE INSIGHT INTO SHELL**

BY JOHN DONOVAN

## **INTRODUCTION**

The fact that you are reading this page suggests that you have an interest in Shell – the global oil giant. Please invest a few minutes in reading about my dealings with Shell. If you are a long term Shell shareholder (as I am) it will reveal to you information that you should have been aware of years ago. Although my account of relevant events may appear to be incredible, what I have to say is entirely true. It involves the most senior executive Directors of the Royal Dutch/Shell Group, Mr Mark Moody-Stuart, Mr Cor Herkstroter and various Shell managers. All people currently working within the Group. It provides a unique insight into Shell.

It also allows me to rebut the deceptive and inaccurate comments made by Shell in recent press statements, one of which has resulted in a libel action that I filed against Shell on 24<sup>th</sup> April 1998. In their initial press statement, Shell commented on three High Court Actions that DM brought against them, without mentioning that Shell had settled all three in our favour. That was a clear deception, which implied that our current claim in respect of the SMART loyalty scheme is bogus. I understand that I am duty bound to mitigate the damage to my reputation by setting out the true facts.

Judge for yourself whether their senior Directors and managers abide with and uphold the pledges of honesty, integrity and openness, proclaimed in the Statement of General Business Principles published by the Royal Dutch/Shell Group.

## **BACKGROUND HISTORY**

For over a decade, a number of multi-million pound promotions for Shell were developed from ideas which my company, Don Marketing, put to Shell in strictest confidence. They were widely acknowledged as the most innovative and successful petrol promotions ever mounted in the UK. Ideas are in fact the lifeblood of the advertising and promotions world. Agencies can be richly rewarded for devising an idea capable of catching the public's attention. The success of a major promotion in which a client invests several million pounds, depends on the novelty and appeal of the basic idea. Shell has routinely paid us £50,000 each time we have devised a unique idea for short-term promotions. Substantial further fees were received for each scheme.

It had seemed that this mutually successful relationship would continue in the nineties, with a number of DM promotions for Shell kicking-off the decade, including the £4.5 million pounds Star Trek themed scratch card game. I could have never have guessed that the next five years of my life would be spent bringing a succession of High Court Actions against Shell.

Our relationship with Shell changed when, in 1992, a young man, Mr Andrew Lazenby, became Shell UK's National Promotions Manager. A colleague and I presented a succession of promotional concepts to him in strictest confidence between May and November of that year. Six High Court Writs against Shell UK Limited have stemmed from those proposals and associated matters.

## THE NINTENDO GAME

One unforgettable day on 18 June 1993, I turned over a page in my Daily Mail and saw a colourful advert for a Nintendo themed game on Shell forecourts. I had presented a similar scheme to Mr Lazenby in 1992, after first obtaining approval from Nintendo. He had sent me a fax message towards the end of February 1993 saying that he would let me know when there was any further progress on our proposal. Since it was clear from the advert that something was very much amiss, I decided to take the precaution of recording the telephone call that I made to Mr Lazenby to challenge him on the matter. Recording my conversations with him turned out to be one of the wisest things I have ever done. I informed him that in my view the promotion was quite obviously based on our proposal. Mr Lazenby categorically denied that this was the case.

Later the same day, I informed Mr Lazenby that the scratch-off material on many of the game pieces was insecure to the extent that staff at participating stations could pick out the game pieces containing free "game-boy" prizes, before the relevant game pieces were given to motorists. The transcripts of the recordings show that he subsequently accepted that this was the case. Nonetheless, he allowed the promotion to continue on Shell forecourts for its full promotional period, on the basis that "game-boys" (at £60 each) were not high value prizes.

I subsequently wrote to Mr Lazenby confirming our claim that the promotion was based on DM's proposal to him. In due course, I received a letter from Mr David Varney, a Managing Director of Shell UK Limited, claiming that he had personally carried out an investigation. He said that Mr Lazenby had NO involvement in the promotion. Discovery documents subsequently proved that in fact, Nintendo's agents presented their proposal to Mr Lazenby; he had subsequently discussed the promotion with them on the telephone; he took the decision for Shell to proceed with it; he was involved throughout its development and preparation. DM also discovered that in fact Mr Varney had not carried out a personal investigation. His letter was exposed as a cover-up. Mr Varney is now Chief Executive of Transco.

## MEGA MATCH

DM presented a Shell-led promotional consortium proposal to Mr Lazenby in May 1992, called *MegaMatch*. With his approval, DM approached Woolworth, Safeway Supermarkets and Little Chef inviting them to join the proposed consortium. After spending months on the project, to our astonishment, in a letter notifying us of his decision not to proceed with the concept for the time being, Mr Lazenby casually mentioned that he had himself been speaking to a variety of potential partners. This was a flagrant breach of the terms on which DM had disclosed the concept to him. We still do not know the names of the companies that he approached.

## MAKE MONEY

DM also proposed to Mr Lazenby that Shell should run a new version of the "Make Money" matching halves game, that had proved to be spectacularly successful in 1983. Mr Lazenby subsequently secretly produced a Make Money game, even though he already had a copy of a Joint Rights Agreement between Shell and DM in respect of the concept. When I asked outright if a Make Money game was in production, he gave a deceptive response (this is confirmed on transcripts of the telephone conversation). When I offered to send him further evidence of our rights to Make Money, he said that he would not believe it even if I did send it. Fortunately, his manner led me to investigate further and I discovered from a source that in fact, the game was in production. I had caught him red-handed. DM issued a High Court Writ against Shell. Contrary to a recent press statement by Shell, we made the Make Money claim nearly a year after I had notified Shell of the Nintendo claim. Shell eventually gave me a ten-minute ultimatum to accept a settlement offer on the Make Money claim. The ultimatum was on the basis that if DM rejected the offer, Shell would switch to an alternative promotion already being prepared. We subsequently discovered that the alternative promotion was "Now Showing" - one of the other DM claims which Shell subsequently settled. In other words, Shell's ultimatum threat was based entirely on switching to another DM concept, which Mr Lazenby had clandestinely adopted. If we had known the true facts, we would not have accepted the settlement figure that was offered.

## **DM'S DEMONSTRATION TO SHELL THAT THE MAKE MONEY GAME WAS FLAWED**

Mr Lazenby had learnt nothing from his role in producing the flawed Nintendo game. DM proved to three representatives of Shell (on 19 May 1994), just days after the launch of the Make Money game, that the content of each sealed envelope could be identified before being issued to motorists. This meant that any dishonest staff at Shell stations could pick out all of the winners from the stocks of game envelopes. DM demonstrated this in the presence of two Solicitors. Shell is aware that there is no foolproof way to prevent dishonest staff from submitting claims using relative's names. At the same time, following the welcome intervention of Mr John Jennings, the then Chairman of "Shell" Transport And Trading Company Plc., Shell UK accepted DM's proposal that the Nintendo dispute be put to mediation.

Shell's agreement to the mediation was subject to DM entering into a confidentiality agreement (see Mackrell Turner Garrett letter dated 18 May 1994 in the document "Index"). As has become standard practice, the agreement (subsequently repudiated by Shell) was deliberately designed in part, to keep Shell shareholders in the dark. In our experience, that is standard practice (even by Shell Chairman) on sensitive matters involving Shell's business ethics. Our offer to identify the precise flaws in the security of the Make Money envelopes was declined by Shell's lawyers because, as they indicated in a letter, "*Shell could see no advantage in knowing*". By coincidence or otherwise, Shell UK prolonged the mediation process until the promotion had ended and then notified DM that they had no offer to make. This was after their lawyers had advised in writing that a settlement offer was imminent.

## **THE ADVERTISING STANDARDS AUTHORITY INVESTIGATION INTO MAKE MONEY**

At our behest, the ASA investigated the Make Money game. Shell informed them that no consumers had complained about the security of the game envelopes. On further inquiry, Shell had to admit that in fact complaints had been received. Shell's lawyers subsequently instructed DM in writing not to give important evidence to the ASA, which might have changed the published findings of their investigation into the flawed Make Money game. In other words, Shell deliberately impeded the ASA investigation. There is irrefutable documentary evidence to support this serious charge. We supplied it nearly a year ago to senior Shell Management, including Group Managing Directors.

## **SHELL'S BLATANTLY INTIMIDATING TACTICS**

When DM complained after Mr Lazenby had misappropriated DM's Nintendo proposal, DM received numerous threats from Shell managers both verbally and in writing to cut us off from any further Shell business. Mr Lazenby's threats, which were tantamount to financial blackmail, are a matter of record. His boss, Mr David Watson, made a similar threat in a letter to DM. He stated as follows:-

*"I know that in the past Shell has enjoyed a very good business relationship with your company and has worked very successfully with you in respect of some of their promotions. We may well do so again. However, I have to say that this will not be the case if you continue to pursue the line taken in your recent correspondence, calling into question Mr Lazenby's business integrity and Shell's good name."* (In fact DM had praised Shell and its senior management).

Shell's lawyers subsequently threatened in writing to make the legal proceedings "*drawn out and difficult*". DM also received numerous letters from them threatening to seek injunctions. This again demonstrates Shell's ruthless use of financial might to stifle claims from small businesses.

## **THE SHELL CORPORATE CONSCIENCE PRESSURE GROUP**

DM's directors subsequently founded a pressure group whose members included Shell shareholders, Shell retailers and Shell suppliers. Over 10% of Shell retailers joined the group. Several hundred participated in surveys carried out by the pressure group. The results were published in full-page adverts in the forecourt trade press in 1995. 75% of the Shell stations that participated were of the opinion that Shell was unethical, incompetent and greedy.

In a second survey, 89% said that they would not recommend any petrol retailer to switch to Shell. 91% voted that Shell's management should resign. All responses to the survey were opened in the presence of an independent Solicitor, who supplied a sworn Affidavit verifying the results. Shell did not take up the challenge made in the adverts to commission and publish the results of independent research, using the same survey questions. We also organised a protest demonstration at Shell-Mex House and the Shell Centre, which included Shell retailers.

#### **A FURTHER INTERVENTION BY THE CHAIRMAN OF SHELL TRANSPORT, MR JOHN JENNINGS**

DM first wrote to Dr Fay, the Chairman of Shell UK, in November 1993, seeking his intervention. DM received a response from Mr Varney offering the prospect of restoring the "*previous good business relationship*" (provided we dropped a legitimate claim). However, we now know that at the time of his letter, Mr Lazenby was clandestinely engaged in preparing at least two further promotions, based on DM concepts.

In May 1995, Mr Jennings kindly intervened again as a result of his discussions at the AGM on 18 May of that year with directors of DM (my father and I). I subsequently had a "one to one" meeting with Dr Fay that lasted almost two hours. At Dr Fay's suggestion, it was agreed that the discussions were on an "off the record" basis. Mr Richard Wiseman, Shell's Legal Director, disclosed in 1996 that Dr Fay had in fact made extensive notes of the discussions - which would be highly embarrassing to me. Dr Fay made a proposal to DM directors during a subsequent meeting at Shell-Mex House. A proposal which Mr Wiseman subsequently described as being "bananas". We accepted the proposal after Dr Fay had pledged to the effect that there would be "no tricks or mirrors".

The "Nintendo" and "Now Showing" disputes were resolved in our favour in September 1996, after independent lawyers became involved, and had interviewed various witnesses, including Mr Lazenby. One of the lawyers advised me in front of my Solicitor (and another party), of their own damning conclusion about Mr Lazenby's conduct. The independent lawyers were fully aware of the complaints of a similar nature made against Mr Lazenby by other parties, some of whom had worked with him on a day-to-day basis. They also had a copy of a Joint Opinion from specialist Counsel, John Baldwin QC and Dr Mary Vitoria, in respect of the Nintendo promotion, supporting our legal claim for breach of confidence (which Shell settled).

Shell has now alleged in a press statement that the above legal claims were without merit and were settled purely for economic considerations. This is the third distinctly different reason that Shell has put in writing for settling the relevant claims.

The first reason was set out in an unsolicited, unreserved letter of apology which we received from Dr Chris Fay, the Chairman and Chief Executive of Shell UK Limited in October 1996. He acknowledged that in its dealings with DM, Shell appeared not to have met the high standards, which it set itself. The "high standards" being a reference to Shell's Statement of General Business Principles, which require that Shell employees display honesty, openness, and integrity, in all their dealings. We subsequently discovered that the letter was not all that it seemed. Shell was apparently prompted to apologise by the independent lawyers who had interviewed Mr Lazenby.

The second reason given for the settlement was that it was a form of severance payment for our long association with Shell. That claim cannot possibly be reconciled with certain grossly defamatory allegations made against me by Shell, prior to the settlement.

Having previously brought three previous High Court Actions against Shell UK involving breach of confidence, and now a further claim, this time in respect of the SMART scheme, we have gained a considerable insight into how Shell UK deals with legal claims. It appears, from our experience, that irrespective of the merits of a claim, it follows a policy of automatic rejection. If a claimant continues to press their case, Shell threatens retaliatory action. Such tactics probably frighten off the vast majority of claimants. However, any policy of "might over right" is totally incompatible with the business principles, which Shell claims to follow.

**Comments made by Mr Mark Moody-Stuart, the current Chairman of Shell Transport (who is fully "in the loop" regarding these matters), are highly relevant. The following are extracts from his speech in Turkey on 6 October 1997: -**

**"Commercial activity not only can be, but should be, undertaken with positive underlying values – ethical and moral." ...The Statement of General Business Principles constitutes a set of basic core values – of honesty, integrity and respect for people... The Principles are, in a very real sense, our ethical code... We do not bend these Principles. They are non-contestable and non-negotiable. If an employee fails to uphold these values he or she no longer belongs with us."**

**As indicated, Dr Fay has admitted in an apology letter that Shell UK failed to abide by those standards in their dealings with DM. If the Directors of Shell fail to ensure full compliance and proper compensation in respect of the SMART claim, which involves the same Shell Manager, Mr Andrew Lazenby, indulging in the same unethical practices, the Statement of General Business Principles will be exposed as a sham.**

**Numerous Shell Directors have been aware of these matters for a long time, including Mr Mark Moody-Stuart, Sir John Jennings, Mr Cor Herkstroter, Dr Chris Fay, and Mr Richard Wiseman.**

**Details of the SMART claim are contained in the Press Briefing Document (see Document Index). You will see that Shell has acted in flagrant breach of agreements that they entered into with my father and I, and Don Marketing. As a consequence, our Solicitors have notified Shell that Shell has repudiated the relevant agreements. That leaves us free to comment on these matters. Other even more startling information may yet be revealed. If so, it will be at a time and place of our choosing. The additional revelations would shock Shell shareholders.**

**What is clear, from my experience, is that Shell has not succeeded in elevating itself on to the high moral ground which its Statement of General Business Principles is presumably designed to do. It will not achieve this lofty goal unless Shell Management consistently abides with and upholds the pledges contained in the Statement of General Business Principles. In my case, it has fallen far short of this objective.**

**Shell must decide whether it wishes to use its financial might to prevent Shell shareholders from learning about these matters in the days prior to its Annual General Meeting, next Friday.**

**Any members of the news media who wish to investigate these matters are invited to contact me. I have concrete documentary evidence to support what I have said.**

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