

SJD/JAD/H35

Mr David Varney  
Managing Director  
Shell UK Limited  
Shell-Mex House  
Strand  
London WC2R ODX

5th July 1993

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Communication  
By Fax & Post

Dear Mr Varney

I have taken the step of writing to you with much reluctance. However, I am very concerned at the non-professional behaviour of your Promotions Manager, Mr Andrew Lazenby, and the consequences of his actions, which have affected our income and our relationship with Shell.

Don Marketing has had a long and cherished association with Shell UK. We have acted as your promotional games agency for the last decade, commencing with Shell Make Money. During this period, Shell have run the most memorable and successful promotional games ever conducted on UK forecourts. All were also totally secure.

I was astonished for two reasons when Shell launched a Nintendo themed game two weeks ago. The first was because we presented a BIG IDEA for a Nintendo themed game with Nintendo product prizes, including "Game Boy", to Mr Lazenby at Shell-Mex House, in June last year, for a 1993 slot. The second reason is because the game seems to be insecure.

Although Mr Lazenby expressed reservations about the theme being too child-orientated, he retained our proposal and an initial visual, on the basis that the idea might be considered for research. Because it contained commercially valuable information, the proposal carried a statement regarding confidentiality and proprietary rights.

Mr Lazenby claimed that he had forgotten we had ever made a proposal, that he has lost or thrown away our presentation materials, and that he forgot sending me a faxed message on 22nd February 1993, which covered the Nintendo concept. In this regard, it is important to note that planning for the current promotion commenced just a few weeks later.

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Unfortunately, Mr Lazenby initially brushed-off my representations on the matter without even bothering to check our proposal. In this regard, I enclose a self-explanatory copy of a letter I sent to him last week.

We have made several speculative proposals to Mr Lazenby. It does seem unreasonable that when one is taken-up for development, we receive no credit or payment. Obviously, no agency can continue to make speculative presentations when they are not dealt with on a professional basis, and when it appears confidentiality is not respected. It is certainly not the standard of behaviour we have come to expect from a Promotions Manager of Shell.

I responded earlier today to a letter received this morning from your Marketing Communications Manager, Mr David Watson. I noted the inconsistency between Mr Watson's statement in his letter, that Nintendo's agents presented "a fully developed plan" and Mr Lazenby's comment, that a colleague developed the whole promotion. One version must be wrong.

Please be assured that I have not lightly embarked on pursuing this matter. I have only done so after receiving advice from the barrister who advises the Institute of Sales Promotion. He has read all relevant materials, including our proposal.

I would be very grateful if, before responding to my letter, you could kindly arrange for one of your senior staff to read our proposal and the letter I sent to Mr Lazenby on 24 June. The letter provides background information, including comments about the security of the game leaflets.

Yours sincerely

John Donovan  
Managing Director

# Shell U.K. Limited

## Downstream Oil

Shell-Mex House Strand London WC2R 0DX



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our ref UO  
your ref SJD/JAD/H35  
date 12 July 1993

Dear Mr Donovan

I have received your letter of 5 July 1993. Firstly may I say how concerned I am that you consider that a member of Shell's personnel has acted in a less than professional manner and that, in your view, your previous valued relationship with Shell has been eroded.

I have discussed the issue you have raised with David Pirret, General Manager of Shell's Retail Division and Mr Watson's boss, and I have also seen your correspondence with Mr Watson, including your latest letter written on the same date as your letter to me. I have, as you requested, asked for a report on the proposal you submitted and compared this with that submitted by the Business Development Partnership.

I know Mr Watson has already told you that a decisive factor in his decision to accept the BDP proposal was that it had already been prepared as a "package" initially for another oil company, and no input was required from Shell. I think you misunderstood Mr Lazenby's comment that a colleague of his developed the whole promotion. He tells me that his comment in this respect was that he was not involved with this particular promotion and that it was being administered by a colleague, and this of course was correct.

I have to say I am satisfied that the decision to accept a proposal from a source other than yourselves for a fully constructed Nintendo promotion was taken in good faith. Whilst I appreciate how disappointing it was for you not to have your own proposal accepted, as I see Mr Watson has already pointed out to you in an earlier letter, we received a number of suggestions from various sources concerning the possibility of a promotion featuring Nintendo. The one ultimately selected was, for a number of reasons, the most commercially attractive to us.

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I am also satisfied that the format for the promotion we selected was constructed and presented to Shell in a very final stage, and there is no question, as I think you are suggesting in your letter, that any aspect of your own proposal was incorporated.

Thank you for writing to me. I trust that the result of the investigation I have carried out into the matter has eliminated any possible misunderstanding.

Yours sincerely

A handwritten signature in black ink that reads "David Varney". The signature is written in a cursive style with a large, sweeping initial 'D'.

David Varney  
Managing Director

SJD/JAD/H40

Mr D Varney  
Managing Director  
Shell U.K. Limited  
Downstream Oil  
Shell-Mex House  
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London WC2R ODX

15 July 1993

Dear Mr Varney

Thank you for your letter dated 12 July 1993. I am most grateful that you have taken time to look into the matter. However, I would like to correct some of the erroneous information provided to you by your staff and make a few salient points which you may wish to consider.

- 1) It is important to note that BDP were not just an agency who happened to come up with a Nintendo themed game for Shell forecourts. They did so on the instructions of their client, Bandai UK Limited (Nintendo's UK arm), the very company to whom we had disclosed our "BIG IDEA" for a Shell promotional game. The novel features being a Nintendo theme, with a scratch-off game generating Nintendo product prizes, the first of its kind in regard to promoting petrol sales. These fundamental elements were proposed by Don Marketing to Nintendo and to Shell under the protection of a confidential document.
- 2) The implication of your comment that the decision to accept the BDP proposal was taken in good faith, is presumably that the persons who took the decision were unaware of our prior approach to Nintendo and Shell. If they had been aware of the unusual circumstances, it is conceivable an attempt might have been made to reach an amicable agreement between the parties involved (there is a precedent). And at that time, being keen that the promotion proceeded, Nintendo may have taken a flexible stance. At the very least, the matter could have been considered. Instead, whether unintentional or otherwise, the presentation terms of our proposal were broken and Nintendo's questionable behaviour succeeded. The reason why our rights, as the originator of the concept, were not even considered by Shell at that crucial time, was due to the incompetence of Mr Lazenby.

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- 3) Although you have been advised that many Nintendo themed proposals have been submitted, I note that my repeated assertion that DON was the FIRST to propose a Nintendo themed promotional game to Shell has not been refuted.
- 4) I also note that although you mention in your first paragraph, my assertion that Mr Lazenby acted in a less than professional manner, you do not actually respond to this vitally important point. How can this assertion be ignored or refuted when he has admitted that he forgot we had ever made a Nintendo themed proposal, forgot my subsequent 'phone conversations with him on the subject, and forgot the exchange of faxes which apparently took place just a few weeks prior to the BDP presentation.
- 5) You have advised that Mr Lazenby told you his comment to me was that the promotion was being administrated by a colleague. Unfortunately this seems to be another example of his short memory. He did categorically state that a colleague developed the whole promotion. Nintendo take a slightly different view. Their Mr David Patton has stated that the "mechanic was further developed by Shell and an agency" (presumably BDP).
- 6) Mr Lazenby was involved in the promotion, at least to the extent of being present during the presentation by Nintendo's agents. His involvement is not surprising, given the fact that he is your Promotions Manager.
- 7) But, perhaps the most important point of all is that if Mr Lazenby had not repeatably confirmed that our proposal was still in contention, WE would have been free to offer it to another petrol company. There is indisputable written evidence that this was his stance as recently as just a few months ago. He even continued to maintain the same stance during 'phone conversations with me, which took place after the presentation by BDP. This amounts to grossly unfair treatment under any circumstances, but given our long association, is even harder to accept.

The consequence of these events has obviously now passed beyond the stage of eroding our relationship with Shell. Unfortunately, I suspect "terminating" would be a more accurate description, but it will be very sad if it does end in such unhappy circumstances.

I look forward to receiving your further comments and thank you again for your efforts in looking into the matter.

Yours sincerely

John Donovan  
Managing Director