

Our Ref:JAD/J28

Mr David Varney
Managing Director
Shell U.K. Limited
Shell-Mex House
Strand
London WC2R ODX

9 February 1994

Dear Mr Varney

SHELL NINTENDO PROMOTION

My apologies for the delay in responding to your letter dated 26 November 1993, but since we appeared to have reached an impasse, I decided to obtain further advice from Counsel before replying.

However, before turning to the legal aspect, I would first like to register my disappointment that you chose not to deal with my questions regarding the "decisive factors" stated in your letter of 12 July 1993, which apparently led to your stated conclusion that the decision to accept the promotion was taken in good faith. The implication being that the decision was taken by someone who had no knowledge of our proposal.

I am sure you will be concerned to learn that this account is fundamentally different from that given to me by Messrs Lazenby and Watson. They have admitted that it was Mr Lazenby who actually took the decision after BDP's presentation to him (which itself stemmed from our proposal). Thus he was involved in the promotion. I also discovered that Shell did have an input into the promotion.

The statement that I declined to attend the proposed meeting is also incorrect. In fact, I accepted the invitation, only to discover the agenda for the meeting was different to that implied in your lawyers letter. Furthermore, the passage attributed to the letter, stating "should the meeting reveal any new grounds for an action against Shell", did not actually appear in it.

I now turn to the advice we have received from eminent specialist Counsel. They have had access to all relevant information in our possession, including the three letters sent under your signature, plus letters and Special Field Orders dating back to 1981, confirming custom and practice between Shell and Don Marketing. These prove that Shell has paid us concept fees for basic ideas, in one instance, before a game format had even been devised, and that mutual respect of confidentiality was an essential element in the relationship. Our Solicitors also supplied Counsel with a report from an independent expert witness.

Having received the subsequent considered advice, which reaches a different conclusion from that expressed by your lawyers, we remain entirely satisfied that our claim is valid and has every prospect of success if the matter has to come before the Courts.

However, I appreciate the sentiment you expressed about restoring the previous good business relationship and certainly share the view given to Mr Watson by John Smeddle (with whom we worked on "Make Money" 10 years ago) that the affair really ought to be resolved on an amicable basis. Therefore, trusting that Shell has a genuine desire to settle the matter, I confirm my willingness to attend the proposed meeting on the basis offered by your Senior Legal Advisor and will telephone within a few days to arrange it.

But please be in no doubt that in the last resort, if our strenuous efforts to avoid litigation are unsuccessful, we will commence legal action.

Yours sincerely

John Donovan
Managing Director