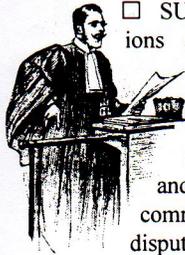


Loyalty marketing

SHELL IN HIGH COURT SUIT OVER SMARTCARD SCHEME

□ SUFFOLK-BASED promotions agency **Don Marketing** faced multinational giant **Shell UK** in the High Court to argue its case of alleged breach of contract and misuse of confidential commercial information. The dispute centres on Shell's *Smart*

multi-brand loyalty card, now operational in the UK and eight other countries. This, claims Don's managing director *John Donovan*, is based on proposals he first put to Shell in 1989 - an allegation denied by Shell, which insists that *Smart*'s genesis was an inhouse project codenamed *Onyx* which began in autumn 1991. Self-cast in the role of David to Shell's Goliath, Donovan has successfully pursued earlier legal actions against Shell for infringement of his intellectual property; he also won an interim hearing against the oil giant for alleged libel. Donovan and his father Alfred have become Shell shareholders and formed the Shell Corporate Conscience Pressure Group, highlighting not only their own case but those of other disenchanted Shell suppliers and franchisees. He has also run ads in the marketing press warning Shell's partners in the *Smart* scheme [among them Avis Rent A Car, British Gas and First Choice Holidays] that they too could face legal action.

Marketing, 10/6/99

▲ **Stop press:** The case ended abruptly after both sides withdrew their respective claims. The terms of the settlement were unstated.

Legal precedent

CLIENT SUES SAATCHI & SAATCHI OVER 'RACIST' AD

□ AGENCIES ON BOTH sides of the line await with bated breath the outcome of a US lawsuit against **Saatchi & Saatchi's** New York office by a client unhappy with the quality of his TV commercial. The case could set a worldwide precedent, allowing clients to sue agencies if they dislike their campaigns. The \$10m (£6m) suit, brought by sports shoe retail chain *Just For Feet*, cites an ad created by Saatchi. This shows a barefoot black athlete being drugged and forced into a pair of Nike trainers by a group of white men in a military-style vehicle, and was wildly unpopular with TV audiences across the US after its screening to 175m homes during a Superbowl broadcast. It was described as "appallingly insensitive" by the *New York Times* and "neo-colonialist ... culturally imperialist, and probably racist" by *Advertising Age*. In evidence, *Just For Feet* chief executive Harold Ruttenberg claims he expressed concern about the ad's content when it was unveiled, but was "browbeaten" into using it by Saatchi creatives. In defence, the Saatchi legal team argues that "the imposition of a punitive damage award in the absence of ... guidelines and standards is highly unfair."

The Independent, 16/6/99

Home shopping

LITTLEWOODS TO MERGE ITS CATALOGUE BRANDS

□ UP TO £50 MILLION is to be ploughed by **Littlewoods Home Shopping** division into a major brand consolidation. Over the next eighteen months, the catalogue giant will merge its agency-sales brands - *Peter Craig*, *Brian Mills*, *Janet Frazer*, *John Moores* and *Burlington* - into two Littlewoods-branded titles with a total annual distribution of three million copies. At the same time, the group's retail catalogue operation *Index* will be re-branded *Littlewoods Index*. According to group chief executive Barry Gibson, the move is driven by market research indications that the group's core market of lower-income families still regard the name Littlewoods as a powerful brand. "Our customers say that the name has great trust, integrity and value", says Gibson. The two consolidated catalogues will differ: one offering credit facilities, the other lower prices without credit. In the year to 30 April, Littlewoods' catalogue businesses contributed £84m in operating profits on sales of £946m, boosting group pre-tax profits to £144m - down from the preceding year's £191m which included an exceptional profit of £132m.

The Times, 30/6/99

Online business information

DIALOG BLAMES MYSTERY MEN FOR SHARE PLUNGE

□ THEY'RE AT IT AGAIN! Those anonymous mystery plotters out to rain on Desperate Dan's parade! *Dan Wagner*, colourful chief executive of the cash-strapped **Dialog Corporation**, accused unidentified "investors" of disseminating misleading information about his company via e-mail, thereby causing otherwise inexplicable rises and falls in Dialog's share price. One such e-mail implied that Dialog was on the verge of a major deal with US cable group @Home - which never materialised, leading at least three Dialog shareholders to complain to the Stock Exchange. Despite this dastardly plot, Dan has managed to pull off a nice little (unquantified) earner with Fujitsu, in which Dialog will license its InfoSort software to the Japanese IT giant. [Those with long memories will recall Dan railing against similarly anonymous villains in "Liechtenstein, Jersey and Monte Carlo" who, back in 1997, allegedly indulged in "disgraceful and immoral" short-selling of Dialog - then Maid - shares, causing the price to plummet.]

The Times, 10/6/99

Free internet services

SMALLER RIVAL CHARGES BT WITH 'FOOT-DRAGGING'

□ A CHARGE OF FOUL play has been levelled at **BT** by smaller telecoms rival **Localtel**, which has lodged a formal complaint with OfTel. This accuses BT of tardiness in transferring customer accounts to Localtel's service, which in turn links with Tempo's free internet portal, *screaming.net*. The service has recruited 50,000 new customers at the rate of

some 2,000 daily by promising connection within eight days. Localtel claims it has been unable keep its installation promise as BT has processed fewer than 300 account transfers a day. Conspiracy theorists believe it is not just coincidence that the delays occurred just as BT is trialling free calls to some of its own internet subscribers. Protests a BT spokesperson, all hurt innocence: "We are putting more resources into this problem and it is our long-term intention to clear it."

The Express, 10/6/99

Direct banking

BOS APOLOGISES FOR ROBERTSON DEBACLE

□ "FORGIVE US LORD, for we did consort with a Pharisee of Avarice and Bigotry but devilishly tempting TV ratings, for which we do now sincerely repent" was not exactly how the **Bank of Scotland** phrased a belated apology for its ill-advised direct banking joint venture - now aborted - with US TV evangelist, the Rev Pat Robertson [*Debrief*, 7-38]. What *Sir John Shaw*, BoS deputy-governor and chairman, actually said was that his board "regrets any concern - to customers, potential customers, proprietors and staff - caused by the events of the past few weeks." All may rest easy that BoS will uphold its principles of "ethical values, tolerance, equal opportunity and non-discrimination". Conscious, however, that many a mickle makes a muckle, *Sir John* added the rider: "As has been recognised from the outset, the concept of establishing a telephone banking operation in North America has considerable potential and we intend to pursue the strategy through other relationships."

Sunday Business, 6/6/99

Marketing alliance

POST OFFICE MULLS STAKE IN CAMELOT

□ THE POST OFFICE is considering taking a stake of up to 20% in National Lottery operator **Camelot**. In return, the PO would use its best endeavours to ensure that Camelot retains its highly lucrative lottery franchise for a second seven-year term. No decision will be made on the stake before the Government announces the terms of the next lottery franchise, which runs from November 2001. The new rules are expected to be unveiled shortly and the announcement of the successful franchisee is due next year. The Post Office is already the nation's largest vendor of lottery tickets, and its increased involvement would not be good news for other lottery wannabes, not least Richard Branson who says he would run the franchise on a 'not for profit' basis [intentionally!].

The Times, 21/6/99

Incentive marketing

GREAT GROCERY GIVEAWAY AT SAINSBURY

□ IN A BID TO WIN BACK shoppers lost to rival supermarkets, **J Sainsbury** is giving away a variety of groceries to customers visiting its stores during the summer. The promotion,

Direct marketing // E-commerce
Sales promotion // Interactive TV
Relationship marketing // Sponsorship

below-the-line Debrief

Last month in retrospect: an executive summary for senior marketers

IN THIS ISSUE ▼

| | |
|--|----|
| Interactive TV <i>Despatches from the interactive frontline</i> | 77 |
| Current Campaigns <i>Summarised from last month's press</i> | 78 |
| Directissimo <i>New travellers on the direct-sell route</i> | 79 |
| Expansions <i>Growing businesses</i> | 79 |
| Promotional Pairings <i>Joint promotions and campaigns</i> | 80 |
| Relationship Marketing <i>Customer-care & retention programmes</i> | 80 |
| Sponsorships <i>Who's grabbing it from whom</i> | 81 |
| Just Good Friends <i>Strategic partnerships; likely mergers</i> | 81 |
| Marriages <i>Confirmed mergers and acquisitions</i> | 82 |
| Births <i>Start-ups and new ventures</i> | 82 |
| Gotcha! <i>New business gains</i> | 83 |
| Divorces <i>Buyouts, disposals and de-mergers</i> | 83 |
| Facelifts <i>Corporate restructurings, other upheavals</i> | 84 |
| Dear John ... <i>Sudden exits by senior managers</i> | 84 |
| Snakes & Ladders <i>Senior management job moves</i> | 85 |
| Marketing Mix <i>News in brief from the marketplace</i> | 86 |
| Company Results <i>How listed marketers performed</i> | 86 |
| The Highway <i>Electronic marketing (supplement)</i> | 87 |
| Cumulative Index <i>see separate appendix</i> | |

Subscription enquiries:

NTC Publications Limited
Farm Road • Henley-on-Thames • Oxon RG9 1EJ
Tel: +44 (0) 1491 411 000 • Fax: +44 (0) 1491 571 188
e-mail: debrief@ntc.co.uk

Editorial enquiries:

Brokesbourne • Great Wheltenham • Bury St Edmunds
Suffolk IP30 0TY • United Kingdom
Tel: +44 (0) 1284 388 100 • Fax: +44 (0) 1284 388 347
e-mail: peterss@netcomuk.co.uk

Editor • Peter Scott-Smith
Editorial assistant • Emily Lowson



Available only on annual
subscription: £145 pa
(11 issues, monthly excluding August)

Online news archives: www.debrief.co.uk

KEY EVENTS

Sales promotion

HIGH COURT RULES PRIZE DRAWS ILLEGAL

□ THE HIGH COURT last month dealt a massive blow to the sales promotion industry, ruling that one of its favourite techniques - the 'no purchase necessary' prize draw - is illegal.

Promotional prize draws, which have an estimated annual value of £1bn, are beloved by major advertisers such as Nestlé, Coca-Cola, Mars and Carlsberg-Tetley. For the past eight years, promoters and agencies have proceeded with innumerable prize draw promos in the fond belief that they did not infringe the law provided that entry without proof of purchase was allowed - the magic 'no purchase necessary' mechanism [usually camouflaged in seven-point type on the nethermost line of the ad or entry form].

The case that triggered the controversial judgement was that of a Bristol newsagent who had distributed a free scratchcard game on behalf of a newspaper. In his ruling, Judge Raymond Jack QC opined: "If it is right to prohibit unexempted lotteries as contrary to the public good, it made no sense to hold that a scheme was not a lottery because some participants did not contribute - even though substantial numbers of others often did."

Given the promotional efficacy of the prize draw technique, to say nothing of its relatively low operating costs, the sp industry is unlikely to accept the judgement without a ferocious fight. According to ISP head of legal services *Philip Circus*, the ruling contradicts written advice given in 1991 by the Crown Prosecution Service: Scratchcard promotions were not an illegal lottery, the ISP was told, "so long as free entry routes were genuine, realistic and unlimited". The ISP is considering offering financial assistance to the newsagent's defence team if it decides to appeal.

The Times, 24/6/99 & *Precision Marketing*, 28/6/99

Interactive multimedia services

BT POISED TO LAUNCH MULTIMEDIA SERVICE

□ BT IS POISED to launch its long awaited consumer multimedia service next month, revealed group financial director Robert Brace to a London investment conference. Delegates were given the nod to "expect an announcement in August".

The service, which has been in pilot intermittently for over four years, will transmit fully interactive multimedia services, including video on demand, over standard domestic telephone lines. BT has already placed substantial orders for the necessary network and subscriber equipment.

However, the telecoms giant is not alone in planning such a service. Aggressive US operator **MCI WorldCom** is equally eager to offer its customers a similar service using the same technology, but is prudently delaying its launch until BT reveals its subscription rates. No-one yet knows the level at which BT will set prices [on the high side of excessive, judging by past form!] but the EC2 bookies are offering evens on £40 per month.

Reminiscent of the trickle that precedes the bursting of a dam, cabled multimedia services appear set to become a torrent within the next 12-18 months. Not only are BT and MCI waiting to push the button, but cable rivals including Cable & Wireless and NTL are already marketing the modems necessary to receive multimedia services. [No wonder Billionaire Bill has been courting the likes of BT and buying stakes in UK cable companies [*Debrief*, 6-33 & 7-7]; Microsoft's *WebTV* could become its next 'Windows'.]

Financial Times, 25/6/99

Marketing legislation

GOVERNMENT BRINGS FORWARD TOBACCO AD BAN

□ HEALTH MINISTER Tessa Jowell announced that all UK advertising and promotions for tobacco products will end as of 10 December - eighteen months ahead of the rest of Europe.

According to the EU directive thrashed-out two years ago in Brussels, all billboard and cigarette promotions must end by July 2001. However the Government has decided to jump the gun by implementing the ban ahead of other EU states, although it excludes tobacco sponsorship of sporting events - due be phased out by 2003 save for sports deemed to have "global appeal", such as Formula One motor racing, which are reprieved until 2006.

Although the Government's statement did not specifically mention direct marketing, *Colin Fricker*, DMA director of legislative affairs, believes it is embodied within the ban, despite the DMA's frequently argued view that dm should be exempt as it is restricted to adults over the age of eighteen who have voluntarily identified themselves as smokers. The DMA, with other advertising and marketing bodies, is seeking an urgent meeting with the Department of Health, seen as the prime mover in the Government's early introduction of the ban.

BBC Online, 17/6/99 and telephone interview, 18/6/99