

EDITORIAL

SHELL SHOCK

IT HAD TO HAPPEN – although it would be naïve to think that it hasn't happened before because out-of-court settlements have usually kept the quarrel well out of the industry's gaze. An agency is to sue its client not, as I say, for the first time, but the issue is one that is close to the heart of all marketing consultancies: the agency claims that the client has stolen (let's not beat about the bush) promotional concepts which were presented by the agency speculatively and confidentially.

The claim, for £350,000, is being made against Shell UK by Dom Marketing, a sales promotion agency which alleges that its client of 13 years has repeatedly used the agency's concepts without permission and sometimes without payment. Exactly how a business relationship can be maintained over this period in these circumstances

remains a mystery and whether or not the allegations are proved also remains to be seen but, whatever the outcome, the case will highlight a concern which, although always close at hand, is usually mentioned 'strictly between you and me' or 'off the record'.

The obvious reason for this hushed confidentiality is the difficulty in proving that a promotional concept has a specific ownership. It is impossible to claim ownership of an intellectual property, which is what a promotional concept is, until the concept is first committed to paper as text and supporting graphics – as of course they are when presentations of concepts are made. But in rumours and stories I have listened to about 'We pitched for this account, didn't get the business, but our idea was pinched because the campaign idea ran nine months later',

elements of the original were changed which would then make ownership of the concept exceedingly hard to prove – and with litigation costing what it does, many a managing director has sagely thought twice about entering the fray however convinced his team may feel that they've been ripped off.

I do not know how widespread the rip-off experience is because the majority will keep schtum for fear of losing favour with other potential clients. I would guess that the incidence of client companies knowingly using promotional concepts without acknowledgement or payment must be very small but one important service to the industry made by the *Dom Marketing v. Shell UK* case is that it highlights a widespread concern and it acts as a reminder to all marketers that promotional concepts are not up for grabs.

POINTS OF VIEW

THE NEW CAPTAINS OF BRITISH INDUSTRY

WITH JOHN HOOPER going to the ISBA, Colin Lloyd at the DMA, Peter Le Conte at the ISP and, in all likelihood, Graham Greene at the SPCA, there's a real danger that 1995 will see all the main below-the-line industry bodies being led by experienced sales promotion consultants. Can this mean that we're finally achieving the level of acceptance and respectability that we deserve?

Personally, I feel that I am a marketing consultant who supplies strategic advice and has sales promotion skills. Why am I so reluctant to own up to spending my time running promotions when every day at work I feel a tremendous sense of achievement and importance?

Probably because outside the nucleus of 300 or so companies who make up the client lists of SPCA member consultancies, no-one else really knows what we do.

I can only think it's because people don't notice great promotions whereas everyone has their favourite advertisement or recalls the latest junk mail that fell through their doors.

The elevation of our new industry captains was beginning to make me feel confident enough to own up to what I really do when along came *Frank Stubbs Promotes!*

Why is it that despite the fact that sales promotion is now the 'pre-eminent' marketing discipline (your Editorial, *Incentive Today*, July/August, p.2) in terms of expenditure and growth, the quality of people entering our industry has risen enormously and our consultancies are now better and more professionally managed than ever before, that we still don't feel we're taken seriously?

Of course, what we really need is a prime minister who started out in sales promotion, to do for us what John Major has done for circuses and the current pope did for Polish trade unions. It's not really as daft as it sounds, because just think what he or she could do to help promote Britain's exports with the help of a few classic sales promotion offers.

We could have campaigns such as a free tank with every battleship, 20 per cent extra free with every million tons of coal, your chance to win the Falklands (or whatever). Of course, the new PR would also have to be an integrated below-the-line specialist, so we could build up a database of countries, organise global roadshows, create promotions on the BBC World Service and the like.

All the UK sales promotion consultancies could then pitch for the business, in

the certainty that we'd get a good brief (this would be a paid-for pitch, naturally) and a decent fee. And here would be one client who wouldn't brief three other agencies for each job, would treat all his agencies with the same respect, and would be motivated by the 'big idea' that was on strategy.

Sadly, that's where the fantasy ends, because just as the country gets the politicians it deserves, so clients get the agencies they deserve. If we're so good as an industry sector, is it the clients' fault that we feel unappreciated, or the agencies' fault for failing to convince clients that we can add strategic value?

What we need is for more consultancy captains to stand up and help tell the world what we can do. I have nothing but admiration for those who are already making a contribution. Now is the time for the rest of you to stand up and be counted.



Malcolm Davies is managing director of Coaxis