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Chips are down for UK charities

The International Red Cross & Red Crescent Societies is one of the biggest charities in the world. It has 122 million members, spends £9.4bn annually on operations and services and employs 284,240 people worldwide.

From the Sudan to Rwanda and the Balkans, it has been on hand to offer food and aid.

And yet it is about to embark on a fundraising scheme that could be just as dangerous, at least to its reputation, as any of its international aid ventures. To raise over \$1bn (£610m) it is backing a worldwide lottery draw, Millions 2000, promoted and co-ordinated via the Internet.

Marketing Week has discovered that it is illegal to promote this lottery in the UK and possibly other countries, although GGT London has been hired to handle a claimed £30m global ad campaign for the scheme. It falls foul of the 1976 Lotteries & Amusements Act, preventing the promotion of foreign lotteries in the UK. Despite Red Cross lobbying, the Home Office is refusing exemption.

The incident highlights the growing dependence of charities on lottery and gambling money. The Directory of Social Change, a voluntary sector research body, will warn later this week that charities may 'damage the good name and hence the fundraising capacity of charities as a whole' through their reliance on gambling.

And yet many have no choice.

In the UK some smaller charities could not function without the £800m now pumped into them via the National Lottery. The Gaming Board report for 1996/97 shows that charity and society lotteries had a turnover of £115m in the period, providing some £45m of funds for good causes – up 46 per cent on the previous year.

The signs are this income will leap again this year, with Littlewoods' launch of the Diana scratchcard and the Pronto! pub lottery game, which the Home Office wants to outlaw.

A group of 65 charities, including Mencap and the Cystic Fibrosis Trust, are campaigning for Pronto! to be allowed to operate because it may raise as much as £100m annually for UK charities. Others argue that the trend to employ gambling as a fundraising technique merely reflects what is going on in society.

But GamCare, a charity promoting responsible gambling, believes its peers are subsuming the concerns about gambling to raise money as donations fall.

UK charities raise an estimated £4bn annually from all sources including Government. In that context the amount raised from gambling may seem small but the combined figure for the National Lottery and private lotteries is now approaching £900m per year.

From the very big to the very small, there is a growing addiction to gambling in the UK – among charities.

See Cover Story, page 28; News story, page 11

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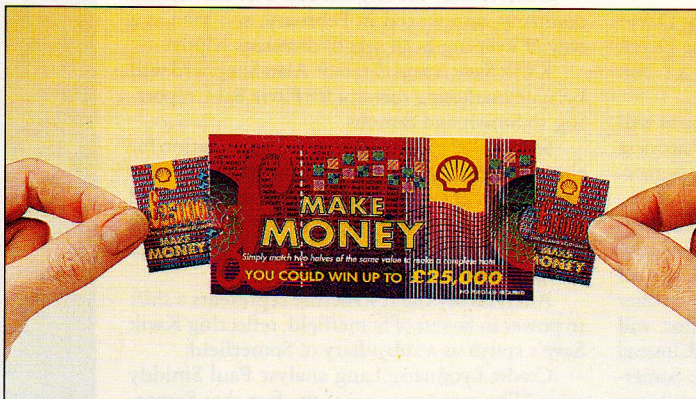
High Court papers unveil 'secret' Shell writ losses

By Tom O'Sullivan

High Court papers have revealed that Shell has already lost three copyright battles with the promotional agency that issued a High Court writ against it two weeks ago.

The details of the out-of-court settlements have, until now, remained secret as part of the agreement reached by the two sides.

In its latest legal action, Don Marketing is suing Shell for allegedly breaching its copyright on the concept idea used to create Shell's Smart card loyalty scheme, which is being tested in Scotland. All three previous cases hinged on



Shell 'Make Money': Shell had to pay a 'substantial sum' in settlement

the same claim of infringement.

Additional papers, lodged with the High Court writ, show that in 1996, Shell settled two cases brought by Don Marketing "on terms favourable to the plaintiff". In both cases, one a Nintendo-themed promotion, the other a Hollywood-themed promotion, the agency claimed that Shell had used its ideas, given in confidence in 1992, without either crediting the agency or paying for such use.

In a third case, Shell paid "a substantial sum" to settle a legal action in April 1994. It resulted from the re-use of the "Make Money" promotion, which Don Marketing first ran for Shell in 1981.

Don Marketing is demanding a multimillion pound settlement in the Smart case. But Shell, which has 14 days after the writ's issue to respond, says: "We are filing a defence and possibly a counter claim."

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Tesco to roll out own brand cosmetics line

Tesco, Britain's number-one supermarket chain, is introducing a make-up range.

Called simply Make-up, the range has been developed under the supervision of Barbara Daly – the make-up artist who designed The Body Shop's Colourings range.



Tesco: April launch for Make-up

It includes about 120 items, such as lipsticks, blushers and cosmetic brushes.

All the products cost under £5. Daly has been working on Make-up, which will be available from the end of April, for the past two years.

The range highlights the chain's investment in non-food products. In its annual results announced yesterday (Tuesday), chief executive Terry Leahy, says: "Our non-food offer is becoming increasingly important in widening choice for customers."

The results show Tesco's like-for-like sales have risen by 6.1 per cent including volume growth of 4.5 per cent. Group profits before tax have risen by 10.9 per cent to £832m.



The History Channel unveils a TV advertising campaign this week. The drive highlights the channel's diversity by featuring a similarly broad range of famous faces. The ads will feature England 1966 World Cup striker Geoff Hurst, musician Malcom McLaren, actor Simon Callow, and champion hurdler Sally Gunnell. Each star talks about how parts of their lives have passed into history. The four 60-second ads were devised by design and advertising agency Ortmans Young International. The four-week campaign will run across cable and satellite stations.

Cadbury to target women with new chocolate countline

Cadbury is launching a new countline called Marble next month supported by press advertising through GGT and new Coronation Street sponsorship credits.

Marble, which has been tested in block format in Australia, is a marbled milk and white chocolate bar with a hazelnut praline centre.

The new "everyday indulgence" bar will be promoted as a women's brand and female consumers between the ages of 18 and 24 will be targeted with a campaign in the women's press. Marble-branded sponsorship credits in Coronation Street breaks will be seen by audiences of up to 18 million an episode.



Marble: The latest 'indulgent' product highlights Cadbury's innovation

Cadbury points to its innovation in the chocolate confectionery market, using new technology to launch brands and variants such as Fuse, Astros and Wispa Mint. It says the

"indulgent sector" of the market, which covers brands such as Wispa Gold, is worth almost £1bn.

Recent innovations from Cadbury include a Christmas confec-

tionery brand, called Chunky, and a boxed chocolate brand for teenagers, called Wicked. Both will launch in time for Christmas (MW April 2).

Cadbury has yet to officially confirm the appointment of Mark Smith as UK marketing director to replace Alan Palmer who has switched to an international marketing role. (MW February 5).

It is understood that Smith, a former vice-president of marketing and technicals for Cadbury Schweppes US subsidiary Mott's, has been carrying out the duties of the UK marketing director for the past two months.

Shell action fuels copyright conflict

Don Marketing's latest High Court writ against Shell is its fourth since 1992. All have been settled out of court but for the first time we reveal the details of cases which place the spotlight on intellectual copyright. **By Tom O'Sullivan**

Shell has already lost three copyright battles in the past four years with the promotional agency which issued a High Court writ against the company two weeks ago (MW April 16).

In its latest legal action Don Marketing claims Shell's Smart card scheme, which is on trial in Scotland, is based on a "multibrand loyalty programme" which it first developed and proposed to Shell in October 1989.

But now the details of three similar cases of ownership of intellectual copyright have emerged as "similar fact evidence" in its latest

claim. Don Marketing clearly hopes that the details will support its claim but it is also hoping to embarrass the oil company.

The details of the three cases, all of which were settled out of court and stretch back six years, have always been kept secret. But additional information contained in the High Court writ issued on April 9, but only publicly available at the end of last week, includes the result of the three actions which also revolved around ownership of promotional ideas.

The first case dates from June 4 1992. Don Marketing claims that

in a meeting with Shell's then promotional manager Andrew Lazenby it proposed a Nintendo-themed forecourt promotion. In 1993 Shell launched its own Nintendo-themed promotion and Don Marketing responded with a legal claim that the scheme was based on its confidential proposal.

According to the information contained in the latest writ the case was settled "on terms favourable to the plaintiff", Don Marketing, in 1996. A second case, also brought in 1994, was settled at the same time and on the same terms according to the writ.

This second case involved a Hollywood-themed promotion. Again the writ claims details of the promotion idea were first revealed to Andrew Lazenby in a meeting on November 24 1992 for a scheme under the proposed title of "The Hollywood Collection". In 1994 Shell launched a promotion called "Now showing the collector card" and again Don Marketing started legal action claiming its confidential information had been used without its permission.

The third case involves the "Make Money" promotion which ran in 1994. An earlier incarnation of Don Marketing, called DMML, devised a forerunner to the Make Money scheme in 1981. It was agreed that the scheme would be jointly owned by Shell and DMML and the oil company gave an undertaking that if the scheme was re-run, Don Marketing would be automatically involved.

The scheme was re-run in 1994. But Don Marketing was neither involved nor paid for its previous involvement.

Again it resorted to a legal action, issuing a writ on April 6 1994. Shell settled the case on April 18 1994 and paid what is described in the latest action as a "substantial amount of money". In return Don Market- ▶

CHRONOLOGY OF HIGH COURT ACTION

Don Marketing's account of alleged events outlined in High Court writ Arthur John Donovan v Shell UK Ltd (April 9 1998)

October 23 1989 - Meeting between Don Marketing's representative Roger Sotherton and the then Shell promotional manager Paul King at Shell-Mex House. Don Marketing's multibrand loyalty scheme detailed in a document, "A presentation of promotional ideas to Shell UK Oil", presented at this meeting. A copy of the document, marked "strictly confidential", left with Paul King. Between October 1989 and July 1990 further conversations between Sotherton, King and two other Shell employees Tim Hannigan and its then national promotions co-ordinator Stuart Carson about the concept.

July 24 1990 - Letter sent by Sotherton to Brian Horton at J Sainsbury including the details of the multibrand concept and an invitation for the supermarket chain to join any future scheme. At the same time Don Marketing granted Shell an exclusive first option on the multibrand loyalty scheme. But Shell decided not to pursue the concept "at this time".

May 12 1992 - Don Marketing managing director John Donovan and Sotherton met with Shell promotional manager Andrew Lazenby

and proposed a multi-brand promotional game known as "Megamatch". At the meeting Don Marketing again revealed its multibrand loyalty programme idea.

May 14 1992 - Don Marketing gave a copy of the 1989 document, "A presentation of promotional ideas to Shell UK Oil", to Lazenby. November 24 1992 - Don Marketing revealed further details of the proposed scheme and how it could use plastic swipe cards, and that a "smart card" could capture data and handle financial transactions as well as processing the promotional "currency", or redemption.

April 18 1994 - Don Marketing wins damages from Shell in an out of court settlement brought over the oil company's "Make Money" promotion.

July 1996 - Don Marketing alerted to Shell's plans for a smart card consortium by articles in The Sunday Times and Marketing Week.

October 1996 - Two further actions brought by Don Marketing against Shell settled out of court "on terms favourable to the plaintiff".

April 1997 - Shell launches a Scottish trial of its smart card with advertising through M&C Saatchi.

April 9 1998 - High Court writ issued against Shell UK alleging copyright infringement.

Shell Smart: Don alleges copyright infringement



ing relinquished its rights to the Make Money concept.

No compensation figures are given for any of the out-of-court settlements but in the Hollywood case Don Marketing is believed to have received more than £200,000 in settlement.

The three cases were all for short-term promotions. The Smart programme is seen as a long-term investment by Shell. More importantly, the legal row could further delay the national roll-out of the scheme which was scheduled for the end of last year.

Officially it was delayed because the ten partners in the scheme, including Dixons, the RAC and Commercial Union, could not agree a launch date. Advertising for the scheme in Scotland was devised by M&C Saatchi. Its chairman Lord Saatchi has often been credited with bringing the partners in the Smart consortium together.

But Don Marketing claims the idea for a "multibrand" loyalty scheme was first offered to the oil company at a confidential meeting between the agency and Shell on October 23 1989. The High Court claim also reveals that Don Marketing had approached both Sainsbury's and Tesco, among other potential partners, to join a multi-brand scheme with Shell in early 1990.

Sainsbury's was an initial member of the Shell Smart consortium in 1996 but is not part of the Scottish trial.

The oil company has 14 days after the writ was issued to respond to the High Court action and is acutely aware that its Annual General Meeting on May 8 will be used by Don Marketing managing director John Donovan as an opportunity to increase pressure on the oil company. A Shell spokesman says: "We will be filing a defence and may possibly look at a counter claim."

Don Marketing's solicitor Richard Woodman denies that the latest High Court writ is an attempt to embarrass Shell into an out-of-court settlement. But it raises the issue of ownership of ideas and concepts. If the case makes it to court it could provide a useful precedent for all those who believe companies have used their ideas without permission.



Smart: National roll-out delayed

Lee strides into high fashion to beat slump

Designer brands and own-label lines have hit Lee jeans sales. Can a new campaign targeting the fashion market turn it round? **By Francesca Newland**

Lee jeans' appointment of US agency Fallon McElligott to its £12m European advertising account (MW April 16) signals its plans to turn round the brand's poor UK sales by moving into high fashion.

VF Corporation, which owns Lee and Wrangler, faces a monumental task in Britain.

At the end of last year, Lee's UK sales fell by almost a third compared with 1996 – performing even worse than the 13 per cent decline in the branded jeans market. Lee is the number three branded jeans label in the UK after Levi's and Wrangler, but the gap between it and the number four, Lee Cooper, is narrowing.

The new campaign by Fallon will give the brand a strong appeal to women, and build on its fashion credentials. A sound reason for targeting women is that, unlike men's and children's jeans, the women's jeans sector is still buoyant. Volume sales of adult women's jeans grew by one per cent year-on-year in the 24 weeks to March 15. This contrasts with the performance of adult men's jeans, which fell by 12 per cent in the same period (TN AGB Fashion Trak).

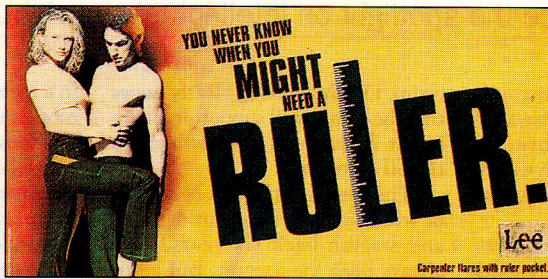
In 1997 Lee's volume share of the women's jeans market grew from 4.7 per cent to six per cent. This is crucial given the label's overall decline – in the 24 weeks to the end of December 1997 its UK sales fell by 29 per cent compared with the same period in 1996 (Fashion Trak).

Yet a spokesman for VF Corporation claims: "Sales of Lee rose steadily in the UK last year."

Branded jeans became popular in the Eighties, but in the Nineties have suffered at the expense of designer labels and own-label lines. Added to this, trends have shifted in favour of the trouser market, leaving Marks & Spencer in a strong position for sales growth.

As one jeans marketer says: "Consumers are no longer going into jeans stores. They now follow either designer brands or own label. These categories are forging ahead at the expense of the others."

The age profile of jeans buyers is



Lee: Number three branded jeans label in the UK market

also changing. The number of under-25s buying jeans has plummeted, while the over-25s are buying considerably more. So Lee must seek older consumers and give them a strong reason for buying the brand.

But by targeting women Lee could miss out on the much larger men's jeans market. Mintel estimates that in 1997 12 million pairs of women's jeans were sold, compared with 22 million pairs of men's jeans.

There can also be pitfalls in trying to give jeans a gender appeal. Wrangler ran the "City Slickers" campaign in 1996 through agency TBWA aiming to build a "Wild West" imagery for the brand. Unexpectedly, sales to women rose. The account was snatched by Abbott Mead Vickers BBDO in November of that year, and it has succeeded in pushing a distinctly masculine image with its "Rodeo" campaign.

The spokesman also denies the claims by sources close to the company that VF is applying a gender positioning to the Wrangler and Lee brands in the UK. He refused to speak to *Marketing Week*, but a spokesman says: "It is simply not the case that Lee is for women and Wrangler is for men."

David Smith was appointed to the new post of marketing director jeanswear in January (MW January 22) after being promoted from European marketing director for Wrangler. As one observer says: "It makes sense to have one person marketing both brands to ensure the right positioning."

The company ousted Derek Woodgate, its European marketing director for Lee, last January. And it shed Ian Morris, UK marketing manager, last week.

Responsibility for improving the brand's performance now rests with

Smith and Peter Abbiss, who was appointed marketing director for all VF jeans brands in the UK, Ireland and Scandinavia, last week.

The moves are part of VF's establishment of a single marketing unit for northern Europe.

VF plans to revive its fortunes in the jeans market through launching

new labels. Lee introduced a fashion-led sub-brand called Lee Riveted in the US a few years ago. According to a spokeswoman for Lee in the US, the line was so successful that Lee's core brand was given a stronger fashion edge in 1996.

VF is planning to launch its own budget label Old Axe in the UK (MW April 2) – expected to cost about £8 a pair and designed to fight off own-label competition. But it introduced its cut-price Maverick brand in 1994, which is understood to have been withdrawn from mainstream distribution in 1996.

Lee has an advantage in that it lacks a strong positioning, and this could work in its favour as it develops a new image for the brand. One observer says: "I have always thought Lee is a lucky brand as it has never been pigeon-holed."

"In women's jeans Levi's is king, and Falmer is doing well. There's also Marks & Spencer." But he points out the problems of trying to make Lee appeal to women. "Women are not as loyal to brands as men."

The jeans market is particularly responsive to advertising. Kelvin Vidler, managing director of Lee Cooper, the only label apart from Falmer to increase share at the end of 1997, attributes its growth to an increased investment in advertising. In the final quarter of 1997, Lee Cooper almost doubled its ad spend and in the 24 weeks to the end of the year, sales grew by 79 per cent compared with the same period in 1996.

Fallon's advertising campaign will clearly play a crucial role in the turnaround of Lee. But the agency will have to judge the gender issue sensitively, increasing sales to women, without putting off potential male customers.