

FINAL ADJUDICATION

Peabody Energy Corporation

Case number: A14-266168
Media: Press general
Sector: Industrial and engineering
Agency: Burson-Marsteller

Number of complaints : 1

Background

Summary of Council decision

Three issues were investigated, one of which was Upheld and two of which were Not Upheld.

Ad

A national press ad from Peabody Energy featured text that stated: "Let's Brighten the Many Faces of Global Energy Poverty... 3.5 billion people in the world lack adequate access to energy... 4 million people - one every eight seconds - die each year from energy poverty... Untold millions around the world must choose between paying for food or power... Energy poverty. It's the world's number one human and environmental crisis. It holds people and societies down, cripples health and damages the environment. Access to energy is an essential gateway to modern living, longer lives and powerful economies. That's why Peabody Energy is working to build awareness and support to end energy poverty, increase access to low-cost electricity and improve emissions using today's advanced clean coal technologies. We call it Advanced Energy for Life. Because clean, modern energy is the solution for better, longer and healthier lives. Together we can brighten the faces of billions by improving energy access for all. Be part of the solution in your community and around the world... Campaign powered by Peabody Energy". The text was accompanied by images of people of different nationalities, including those whose environments indicated that they were in developing areas, a woman cooking over an open fire and an elderly woman warming her hands with an electric bar fire.

Issue

The WWF, who understood that Peabody were the world's largest private-sector coal company, that scientific evidence showed climate change was the world's most pressing environmental and human crisis and that the negative impacts of coal mining and burning were scientifically-proven, challenged whether

1. the claim "energy poverty is the world's number one human and environmental crisis" was misleading and could be substantiated;
2. the ad implied that the advertiser was working to solve energy poverty and that this was misleading because it did not make clear the extent of the effects on the environment of the advertiser's own coal-related activities and because they understood that it was generally accepted that the solution to energy poverty depended on renewable energy sources rather than fossil fuels, and

3. the term "clean coal" was misleading and implied that the advertiser's impact on the environment was less damaging than was actually the case.

Response

Peabody Energy Inc (Peabody) stated that the campaign was intended to build awareness of the need to eliminate energy poverty, increase access to low-cost electricity and improve emissions through "clean coal" technologies. They stated that the UN Secretary General had described energy as "the golden thread that connects economic growth, increased social equality and an environment that allows the world to thrive", and asserted that half the world's population currently lacked access to energy for basic needs such as clean water, heating, cooking, sanitation and medicine.

1. Peabody stated their belief that energy poverty is the number one human and environmental crisis facing the world today, and that energy from all sources was required to combat the issue. They stated that coal could be part of this solution, particularly for improving access to low-cost electricity. Peabody asserted that without adequate access to electricity, people lack safe access to energy for cooking and heating and must rely on direct combustion of solid fuel, a practice that released soot and smoke into indoor and outdoor environments, known as household air pollution (HAP). They stated that HAP was estimated to cause 4 million deaths and lead to the loss of over 100 million years of life (including healthy years lost to disability) each year. Peabody stated that these figures did not include additional mortality risks, such as an inability to keep medicines and vaccines at suitable temperatures for storage. They provided a number of 'FAQs' from the World Health Organisation, one of which described HAP as the world's "largest environmental-health risk". Peabody also noted that the Wall Street Journal and Forbes had both published pieces that explored the ramifications of ignoring energy poverty to tackle climate change. They further stated that there was significant support for the view that energy poverty was a major issue, and that the question of the relative importance of energy poverty and climate change was a matter of opinion.

2. Peabody considered that its identity and commercial background was of peripheral relevance to the ad, and stated that they were no more than the sponsor of the campaign against energy poverty for the purposes of the ad. They noted that the only references to Peabody in the ad were to its attempts to build awareness for the problem of energy poverty and to contribute to the solution through "clean coal" technologies, which they believed were clearly subsidiary to the message of the ad.

Peabody stated that the foundation of the complaint, that coal is the 'dirtiest' source of energy in the world, was faulty. They noted that the use and collection of biomass for burning negatively affected both indoor and outdoor environments. Peabody further stated that the campaign against energy poverty was also a campaign to use advanced coal technologies to improve the environment. They said that a recent report asserted that fossil fuels (and coal in particular) had driven electrification and therefore successive industrial and technological revolutions and that increased Carbon Dioxide (CO₂) levels could be beneficial for the environment because they had driven up crop production. They also noted that the report stated a disparity between the predicted environmental consequences of climate change and the actual results observed over time. Peabody asserted that WWF's challenge, that the ad was misleading because it failed to describe the negative

impact of coal-fuelled energy, was directly refuted by significant scientific evidence of its positive impact.

Further to this, Peabody asserted that the ad did not claim that "clean coal" technology was the exclusive solution to the problem of energy poverty. They noted that their 2012 'Peabody Plan' to address energy poverty described a range of solutions which included - but were not limited to - using "clean coal" technology, and stated that this approach was taken because the recognised that the world's energy needs were growing at a pace which would outstrip any single source of energy. They stated their belief that all energy sources, including renewables, would contribute to the solution to energy poverty, but that meeting this challenge would still require coal and currently available "clean coal" technologies.

3. Peabody stated that "clean coal" technologies available today had significantly reduced emissions in the US amid increases in coal-based power generation, and provided a data sheet demonstrating that in 2013 coal-based power generation had increased by 125% since 1970, but that combined emissions of sulfur dioxide, nitrogen oxides and particulate matter had decreased by 90%. They asserted that clean coal technologies deliver dramatic environmental improvements, including scrubbing sulphur dioxide, reducing nitrogen oxides through the use of catalysts, and filters to remove particulates.

Peabody noted that the ad stated "That's why Peabody Energy is working to[...] improve emissions using today's advanced clean coal technologies" and that it was therefore clear that 'clean coal' would be used to improve emissions, not eliminate them. They stated that, as they had demonstrated that the level of emissions had declined while coal use rose, the ad as written was accurate and not misleading. They noted that various news and information sites, as well as US Congress and the Centre for Media and Democracy, all used a definition of 'clean coal' that accorded with their own use of the term, and that this use was also widespread in the energy sector (including among detractors of the technology). They also provided examples of news articles that used this definition.

Assessment

1. Not upheld

The ASA noted that the ad referred to energy poverty as "the number one human and environmental crisis", and acknowledged that some might consider other issues, such as climate change, to be more pressing. However, in the context of the ad as a whole, we considered that consumers would appreciate that the claim in question was a statement of the advertiser's beliefs and opinions regarding energy poverty, rather than an objective statement requiring substantiation. We noted that the statement was immediately followed by the phrase "It holds people and societies down, cripples health and damages the environment," and considered that served further to indicate to consumers that the claim constituted the advertiser's opinion. In light of these elements, we considered that the ad was unlikely to mislead consumers about the relative problems of energy poverty and climate change.

We investigated the ad under CAP Code (Edition 12) rules 3.1 and 3.6 (Misleading Advertising), and 3.7 (Substantiation) but did not find it in breach.

2. Not upheld



The ASA noted Peabody's assertion that they were a coal company that intended to use coal-based energy to work towards a solution for energy poverty, and that there was scientific evidence demonstrating the negative impact of coal upon the atmosphere. We acknowledged WWF's assertion that the solution to energy poverty depended on renewable energy sources rather than fossil fuels, and understood that several key figures and organisations had stated that a move away from reliance on fossil fuels and toward modern, clean energy was a goal for the future both in general terms and in solving the problem of energy poverty. We recognised that, in light of this, WWF did not consider that Peabody was adequately working towards solving energy poverty and that the ad should therefore have disclosed the possible negative effects on the environment of coal-based energy. However, we noted that the ad concerned global energy poverty as a general issue and that, although Peabody considered coal to be part of the solution, the ad did not claim that coal-based energy would provide the sole means to solve the crisis. We also understood that a differing opinion existed that stated that it would be a better solution to provide cheap energy through fossil fuels in the short term and provide sustainable solutions longer-term as the risks to health from energy poverty were greater than those from emissions or climate change and because clean energy sources were not yet affordable enough for countries suffering from fuel poverty. We understood that, in this regard, Peabody considered that they were working towards a solution to energy poverty which, although differing from WWF's understanding of best practice, would nonetheless provide sources of energy to those populations that did not currently have reliable access. Although we appreciated that the use of coal-based energy to do this may be contentious, we did not consider that the ad was misleading by implying that Peabody was attempting to find a solution to global energy poverty or by omitting information about the potential negative effects of coal-powered energy production.

We investigated the ad under CAP Code (Edition 12) rules 3.1 and 3.3 (Misleading Advertising), 3.7 (Substantiation) and 11.1, 11.2 and 11.3 (Environmental Claims) but did not find it in breach.

3. Upheld

The ASA understood that the phrase "clean coal" was the term given to a branch of research and innovation aimed at reducing the environmental impact of using coal, such as filtering out particulates and preventing or neutralising the emission of waste gases. However, we also understood that this technology was not able to prevent CO₂ from being emitted during the use of coal, relying instead on carbon capture and storage, and that although emissions such as sulphur dioxide were reduced they were still produced. We also noted that the line immediately following this claim stated "We call it Advanced Energy for Life. Because clean, modern energy is the solution for better, longer and healthier lives," and considered that consumers were likely to assume that this referred to Peabody's 'solution' of "clean coal". Although we noted that the ad stated "clean coal" technologies would "improve emissions" we considered that this was not sufficient to make clear to make clear the nature of this technology, particularly in the context of the word 'clean'. Notwithstanding the fact that "clean coal" had a meaning within the energy sector, we considered that without further information, and particularly when followed by another reference to "clean, modern energy", consumers were likely to interpret the word 'clean' as an absolute claim meaning that "clean coal" processes did not produce CO₂ or other emissions. We therefore concluded that the ad was misleading.

The ad breached CAP Code (Edition 12) rules 3.1 and 3.3 (Misleading Advertising), and 11.1, 11.2 and 11.3 (Environmental Claims)

Action

The ad must not appear again in its current form. We told Peabody to ensure that future ads did not state or imply that their technologies were emission-free or similar unless they could demonstrate that this was the case.

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