PRWeek

GUEST COLUMN

# P.R. Survival Strategies for Food Fighters

Jack Dougherty, September 7, 2012

The same plaintiffs' lawyers that brought down "Big Tobacco" in the 1990s have identified a new villain: "Big Food."

A slew of lawsuits have been filed over the last four months against 25 food manufacturers, among them ConAgra Foods, PepsiCo, Heinz, General Mills and Chobani.

Plaintiffs' lawyers say the companies' food-labeling practices mislead consumers. Terms such as "healthy" and "natural" allegedly over-promise health benefits. Alternatively, the lawyers assert, the industry's failure to disclose genetically modified and other ingredients trick consumers into believing products are safer than they are.

Tempting as it is to dismiss as hyperbole the comparison of comfort food to cigarettes, the food industry is vulnerable.

First, as food keeps getting "lighter" and "healthier" and more "natural," people keep getting fatter. Obesity has been declared a public health crisis. As any jaded crisis communications counselor knows, a crisis has got to be *somebody's* fault—and it can't be the victim's.

Second, social media will make it difficult for the industry to isolate and contain these cases to courtrooms, always the preferred strategy. Today, there are an estimated 11,000 food bloggers. The food blogosphere is populated by rigorous health and nutrition policy wonks, whole foods devotees, hysterical conspiracy theorists, and everyone in between. And the bloggers' appetite for new content is insatiable. "Feeding" and concomitantly activating the bloggers will be a crucial element in the plaintiffs' attorneys' strategy.

Indeed, in the months ahead, the industry will be put in a vise. One jaw will be represented by the application of legal, political and regulatory pressure. The other jaw will be represented by the merchandising of fear and outrage in mainstream and social media. Then it will be time to turn the screw and squeeze.

It is on the P.R. front where the plaintiffs' lawyers will compensate for any shortcomings in their legal strategy. Below are a few of the traps that will be laid for food industry executives to spring.

***Trap No. 1.*** The plaintiffs' will wildly over-simplify the debate in hopes the big corporations will counter with a cumbersome response strategy—which they frequently do. The plaintiffs' lawyers know the press and the people who blog, tweet and post on Facebook have limited tolerance for complexity.

Corporate lawyers, on the other hand, are duty-bound to explain just how complex their issues really are. Thus they transform simple media statements into inscrutable paragraphs separated by multiple commas and conditional clauses. Such Rube Goldberg-style response strategies makes plaintiffs' attorneys smile.

***Trap No. 2.*** Because they know corporations hate to show emotion, the plaintiffs' lawyers will moralize and emotionalize the debate. They will level nasty accusations that impugn corporate executives' ethics. Individuals defend themselves when this occurs. Institutions do not. Corporations prefer to remain cool, calm,

and über-rational in public argument, believing, wrongly, that expression of emotion makes them look weak. Instead, the refusal to express emotion simply makes them look mean. The plaintiffs will cast themselves as Mother Theresa to the corporations' Mr. Spock.

***Trap No. 3.*** The plaintiffs will make it about consumers and dare the corporations to make it about themselves. The plaintiffs will tell stories and show pictures of people who cook for their families and worry about what they ingest. Christine Sturges, a muffin-baking grandmother with food allergies, has already been introduced. Ms. Sturges is suing ConAgra, the manufacturer of PAM cooking spray. PAM's label indicates the product contains "propellants," but does not identify them specifically. When she discovered petroleum gas, butane, and propane were the actual propellants, Ms. Sturges panicked.

ConAgra, if it springs the trap, will not acknowledge her anxiety and mitigate her fear. Instead, corporate statements will be issued detailing how PAM labels scrupulously comply with Title 21, Subchapter B, Part 101, Subpart G, Sec. 101.105 of the FDA's Code of Federal Regulations, which justifies certain food labeling requirement exemptions.

***Trap No. 4.*** The plaintiffs' will dare the food industry to deny common sense. Plaintiffs' lawyers and their allies in the media and activist community deliberately and expertly lure their corporate prey into ridiculous public debates. They know the companies' responses will not pass the straight-face test.

Food activists, for example, reckon that drinking too much soda can make you fat. The Coca-Cola Company—for very sound legal reasons—is forced publicly to disagree. "There is no conclusive scientific evidence to indicate that the sugar in soft drinks causes obesity," according to a top nutrition expert at the company.

Likewise, plaintiffs are currently suing Greek yogurt maker Chobani for listing "evaporated cane sugar" as an ingredient in its pomegranate-flavored yogurt. In many people's minds, including the FDA's, evaporated cane sugar is the same thing as sugar. Chobani must explain how and why it is different.

Almost any kind of hair-splitting from corporations is met with an instant, visceral skepticism from the public. Winning on a technicality in court is always a win. But winning on a technicality in the court of public opinion is usually a loss.

***Trap No. 5.*** Companies will be divided and conquered internally. This "bonus trap" will not be laid by the plaintiffs' lawyers, but by the companies themselves. Turf wars will commence. Legal won't want to talk to the press. The P.R. team will want to respond aggressively. The Government Relations team will want to communicate with some constituencies, but not others.

The usual result of these internal frictions: Adoption of a "half-passive, half-active" communications strategy that pretends it is "iterative" but is in fact faint-hearted. The company talks to the press this week, then imposes a press blackout next week. It modifies one label, but not another.

The press, the plaintiffs' lawyers and the activist community gleefully expose and exploit such inconsistency.

To be successful, the 25 companies being sued must formulate and communicate a resolute point of view early—*and stick with it*. Winston Churchill said it best: "You can have a policy of audacity, or you can follow a policy of caution, but it is disastrous to try to follow a policy of audacity and caution at the same time."

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