Facultad de Ciencias Económicas y Empresariales

GREENWASHING IN THE SUSTAINABILITY ERA: COMPREHENSIVE STUDY ON CORPORATE RISKS AND INTERNATIONAL REGULATION

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ABSTRACT

In today's business environment, with sustainability at the forefront, the issue of "*greenwashing*" has risen. As society increasingly prioritizes sustainability, consumers are seeking environmentally friendly products and services. Companies have recognized the market potential of sustainability, and they are amplifying their commitment to eco-friendly practices. However, this positive trend has given rise to greenwashing, where companies falsely portray themselves as sustainable to boost sales and enhance their public image through vague language and unsubstantiated claims, which is eroding consumer trust in genuine sustainability initiatives.

While regulatory initiatives such as the European Union's proposed Green Claims Directive and informative tools like green labels aim to combat greenwashing, there is room for improvement. A standardized approach to eco-labelling is essential to provide consumers with clear information. Moreover, harmonized collaboration is crucial to establish a framework that effectively addresses greenwashing. To analyze worldwide regulatory approaches, we draw insights from a KPMG survey titled *"Mapping Global Approaches to Tackling Greenwashing"*, which highlights the complexities of addressing greenwashing, emphasizing the need for coherence and clarity in regulatory efforts.

Greenwashing poses significant risks to companies and stakeholders. This report will conduct an analysis of this exploring motivations behind greenwashing and its potential consequences such as reputational damage and legal implications.

To sum up, as sustainability increases as a priority, combating greenwashing is imperative to promote genuine environmental advances. Through regulatory collaboration and informed consumer choices, we can build a more transparent and trustworthy landscape for sustainable practices.

KEY WORDS

Greenwashing, Sustainability and Corporate Responsibility.

RESUMEN

En el entorno empresarial actual, con la sostenibilidad en primer plano, ha surgido el problema del *"greenwashing"*. La sociedad prioriza cada vez más la sostenibilidad y los consumidores buscan productos y servicios respetuosos con el medio ambiente. Las empresas han reconocido el potencial del mercado de la sostenibilidad y están intensificando su compromiso con prácticas sostenibles. Sin embargo, esta tendencia positiva ha dado lugar al greenwashing, donde las empresas se presentan falsamente como sostenibles para aumentar sus ventas y mejorar su imagen pública a través de un lenguaje vago y afirmaciones no fundamentadas, lo que está socavando la confianza del consumidor en las iniciativas que son verdaderamente sostenibles.

Si bien iniciativas regulatorias como la propuesta Directiva de Green Claims de la Unión Europea y herramientas informativas como las etiquetas verdes tienen como objetivo combatir el greenwashing, hay margen para la mejora. Un enfoque estandarizado para el etiquetado verde es esencial para proporcionar a los consumidores información clara. Además, la colaboración es crucial para establecer un marco que aborde eficazmente el greenwashing. Para poder analizar los enfoques regulatorios que hay alrededor del mundo hemos empleado información de una encuesta de KPMG titulada *"Mapping Global Approaches to Tackling Greenwashing"*, que destaca las complejidades de abordar el greenwashing, enfatizando la necesidad de coherencia y claridad en los esfuerzos regulatorios.

El greenwashing plantea riesgos significativos para las empresas y las partes interesadas. Este informe llevará a cabo un análisis de esto analizando las motivaciones detrás del greenwashing y sus posibles consecuencias, como el daño reputacional y las implicaciones legales.

En resumen, a medida que la sostenibilidad aumenta como prioridad, combatir el greenwashing es imperativo para promover iniciativas que son verdaderamente sostenibles. A través de la colaboración regulatoria y las elecciones informadas de los consumidores, se puede construir un panorama más transparente y confiable para las prácticas sostenibles.

PALABRAS CLAVE

Greenwashing, Sostenibilidad y Responsabilidad Corporativa.

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CHAPTER 1: INTRODUCTION

JUSTIFICATION

In the current business landscape where sustainability has become a major priority, I have chosen to explore the emerging issue of *greenwashing* for my bachelor's degree final project. As we embark on an era of growing sustainability awareness, the public has started to become more conscious of the importance of being involved in sustainable practices. Consumers are now aware of their purchasing decisions, and actively seek products and services that are aligned with their environmentally friendly values.

Companies have come to recognise the potential of the sustainability market, and this has encouraged them to increase their commitment to eco-friendly practices. However, the misleading practice of greenwashing has grown out of this positive trend. Due to the lack of clarity on what can be considered sustainable, companies have had the opportunity to engage in these practices without much consideration. Numerous organisations are falsely claiming to be sustainable, while continuing to engage in environmentally harmful practices, as a means to boost their sales and improve their public image. Such marketing tactics can be identified by several key characteristics. They do not provide consumers with sufficient information to assess their veracity, but rather use generic terms such as "conscientious", "environmentally friendly" or "sustainable" when making a statement, to create an impression of eco-friendliness. This lack of precise evidence undermines the credibility of sustainable claims, raising concerns about the authenticity of companies' environmental commitments.

Addressing the challenge of justifying a product as green has been a major concern for stakeholders that are working on resolving this issue. On the one hand, during the last months, regulatory authorities are working on the development of legislative initiatives in order to confront this issue. The European Union's (EU) proposal for the Green Claims Directive is a significant initiative in this regard. On the other hand, green labels, which are informative indicators that help consumers make informed decisions, are another means of justification. However, the widespread proliferation of green labels has been identified as an obstacle within the sustainability landscape. To mitigate this, a standardized approach to eco-labelling, which would enhance transparency and build consumer trust, might be needed.

Today's use of greenwashing is posing significant risks for companies and their key stakeholders, including consumers, supply chain participants, and regulatory authorities. In this report, we will conduct an in-depth analysis of various aspects of the problem, exploring what motivates companies to engage in these practices and examining the potential consequences of such engagement. A particular focus will be given to the assessment of the underlying business risks, which will cover factors such as damage to corporate reputation and its impact on stakeholders, possible operational risks affecting business activities, litigation risks, and other potential legal implications associated with these misleading practices. By featuring real-life case studies where companies have faced greenwashing accusations, we aim to illustrate the risks associated with such practices.

The regulatory landscape concerning greenwashing is evolving rapidly. A strong regulatory framework is needed to protect consumers' trust and build confidence in the authenticity of companies' sustainability efforts. In order to tackle greenwashing, a coherent approach would be a harmonised collaboration and coordination between national government regulators. To properly analyse the main regulations that have been implemented around the world, we will make use of the results of a survey I have been working on for the past months during my internship at KPMG, a leading multinational company that provides a wide range of services to businesses, governments, and institutions in the fields of audit, tax, and consulting. The survey, under the title *"Mapping Global Approaches to Tackling Greenwashing"*, has been distributed across several jurisdictions across the world, where KPMG operates. The findings have been instrumental to identify the different approaches that each jurisdiction takes in order to address the growing challenge of greenwashing, be it through specific regulations or alternative policies. The outcomes provide us with a clear picture that demonstrates the complexity of the issue brought about by the different ways of handling greenwashing cases on an international scale. Each jurisdiction follows a different approach, leading to confusion and complications for companies operating globally.

OBJECTIVES

The aim of this thesis is to provide a thorough understanding of the implications associated with the deceptive practice of greenwashing, considering its potential to jeopardize the multiple advances that have been made within the increasingly prioritized landscape of sustainability. We will look into the issue from a business perspective, examining the impact on companies' stakeholders and focusing on the negative impact that these dishonest practices have on companies. Having thoroughly analysed the regulatory disparities across jurisdictions when confronting greenwashing cases, the focus will be directed towards highlighting the need for governments to set clear guidelines for green advertising, which will be pivotal to forge a strong and homogenous framework at international level that will effectively confront this challenge. Furthermore, the study highlights the critical need to standardize green labels, bringing an end to their widespread proliferation and fostering a more organized and trustworthy sustainability landscape. Overall, this study calls for both standardized eco-labels and clear government guidelines in order to promote transparency and integrity in the context of sustainable business practices.

METHODOLOGY

The methodology that will be used to carry out this thesis in the most comprehensive way possible will include the following approach:

- We will conduct a thorough literature review to gain insights into the historical context, the current trends, and the regulatory landscape surrounding greenwashing.
- We will make use of the findings of the KPMG survey titled *"Mapping Global Approaches to Tackling Greenwashing"*. This survey will provide us with the necessary insights that will help us identify the diverse approaches taken by jurisdictions worldwide when addressing greenwashing cases.
- We will also include real-life case studies where companies have been accused of being involved in greenwashing practices, with the purpose of demonstrating the underlying risks of these deceptive practices.

The thesis will be concluded using a deductive approach derived from comprehensive research, which will culminate in a definitive conclusion. Additionally, comprehensive recommendations on the subject will be provided.

STRUCTURE

To fulfil the objective of this thesis, we will adopt the following structure:

- We will start off by providing an in-depth overview of greenwashing. We will delve into the understanding of the concept and the underlying motivations behind it.
- Following this, we will carry out an examination of current regulations and legislations under development. To do this, we will scrutinize the worldwide regulatory responses to greenwashing, drawing insights from a comprehensive survey, with the sole purpose of proposing recommendations to foster a cohesive global approach.
- We will then study the existing green labelling standards, to understand the approaches used to justify a product as green.
- Lastly, we will further extend our analysis to the repercussions of greenwashing, encompassing risks to corporate reputation, supply chain integrity, and legal compliance.

In conclusion, this thesis underscores the imperative of combating greenwashing through standardized labelling and clear regulatory guidelines to uphold transparency and integrity in sustainable business practices, thus paving the way for a more credible and sustainable environment.

CHAPTER 2: CONCEPT DEFINITION OF GREENWASHING

THE RISE OF SUSTAINABILITY BEYOND A MERE TREND

Before delving into the issue of greenwashing we must take a step back and examine the broader context by understanding the concept of sustainability and its importance in today's society. Understanding sustainability is crucial as it is the root cause of the emergence of misleading practices such as greenwashing. According to the United Nation's (UN) Brundtland Report[1], sustainability is about the development that meets the needs of the present generations without compromising the ability of future generations to fulfill their own needs (TWI, n.d.). This definition arises from acknowledging that resources are finite, which requires their careful management to ensure their availability for future generations without compromising the current quality of life. For this dynamic to operate effectively, it is imperative for society to be committed to social responsibility, prioritizing environmental preservation and working on establishing an equilibrium between human activities and the natural systems (Jarvey, 2014).

During the last few years, the environment has had to face significant challenges because of the lack of sustainable awareness and sustainable practices. Numerous studies have shed light on impacting data that demonstrates the consequences suffered by the environment due to these deficiencies. According to NASA's Global Climate Change analysis, the world has witnessed record-breaking temperatures during the last few years, and the last decade has been recorded as the warmest in history. As we can observe in Figure 1, which illustrates the fluctuation of Earth's surface temperature, the average temperature in 2023 reached a historic high since 1880, year in which temperatures started being recorded. In 2023 Earth's temperature exceeded the temperature recorded at the end of the 19th century by approximately 1.36 degrees Celsius (NASA/GISS, 2023)[2].

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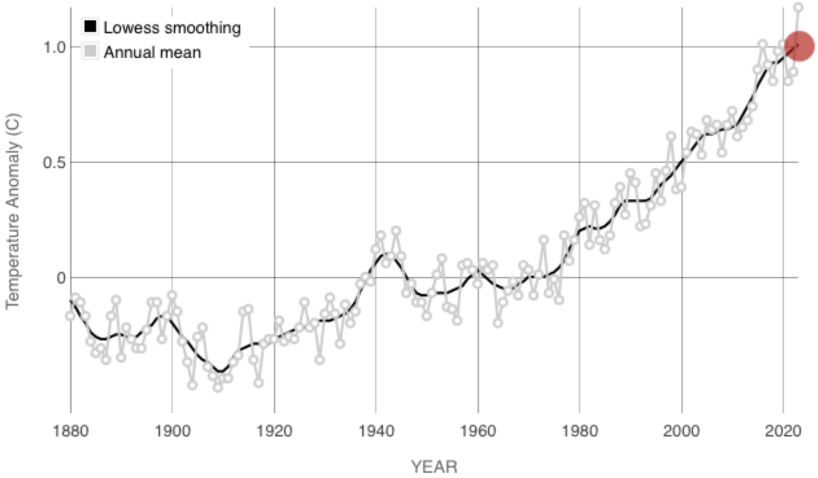
[1] Jarvey, M. (2016, May 20). Brundtland Report. *Britannica*. https://www.britannica.com/topic/Brundtland-Report

[2] NASA / GISS (2024). GLOBAL LAND-OCEAN TEMPERATURE INDEX. Global Temperature | Vital Signs – Climate Change: Vital Signs of the Planet (nasa.gov)

Figure 1: Global Land – Ocean Temperature Index

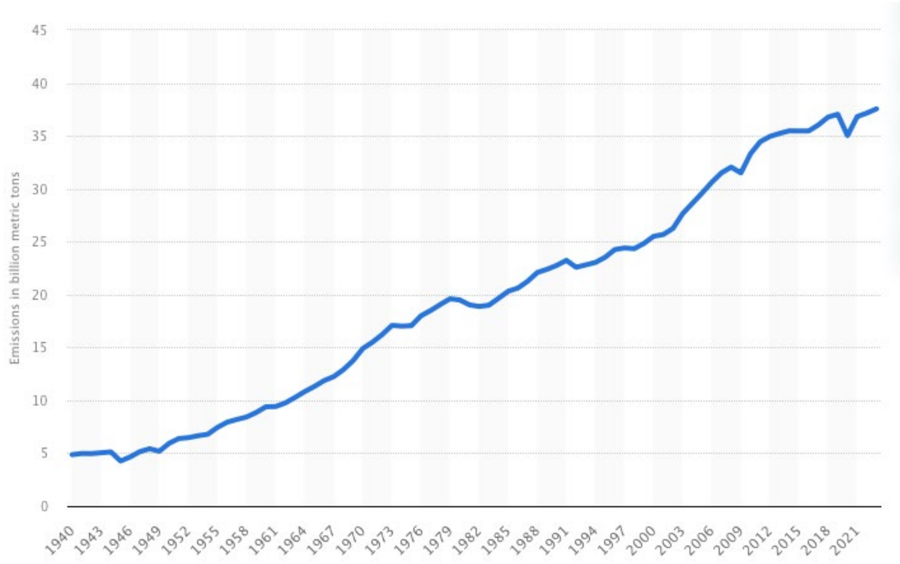


Note. (NASA, 2022).

Furthermore, the global increase of greenhouse gas emissions is also a pressing concern. A study carried out by Statista[3] reveals a disturbing trend that proves the increase of these harmful gases. Due to the increase of the global population and the growth of the economies in the last decades, the demand for goods and services, together with energy consumption, have skyrocketed, and as a consequence our carbon footprint has escalated. To be able to meet this growing demand, the combustion of fossil fuels had to multiply, which resulted in an astonishing 50% increase in annual global greenhouse gas emissions over the past thirty years. For additional insight, please refer to Figure 2 (Tiseo, 2023).

[3]Statista (2023). Annual carbon dioxide (CO_2) emissions worldwide from 1940 to 2023. https://www.statista.com/statistics/276629/global-co2-emissions/

Figure 2: Annual carbon dioxide (CO_2) emissions worldwide from 1940 to 2023



Note. (Statista, 2023).

As we can see, if we do not start adopting more sustainable practices, our current way of life will end up jeopardizing the stability of Earth's ecosystems. Urgency lies in moving to a model that maximizes efficiency using minimal resources, which calls for innovative approaches. Transitioning from a linear economy, characterized by resource consumption, production, and waste generation, to a circular economy is vital. Circularity conserves resources, optimizes manufacturing processes, and prioritizes recycling, all crucial elements to preserve the ecosystem. Continuing to engage in unsustainable practices will inevitably result in the exhaustion of Earth's fossil fuels, the extinction of animal species, and irreversible damage to the atmosphere. Sustainability offers numerous advantages, both in the short and in the long term. Engaging in sustainable practices promises benefits that are crucial to achieve a prosperous environment and society, such as clean air, reliable resource growth and improved water quality (TWI, n.d.).

After highlighting the urgent need for society to start engaging in sustainable behaviors, it is essential to introduce the concept of Sustainable Development Goals (SDGs), established by the UN as fundamental aims towards achieving a sustainable future. These goals are designed as a comprehensive framework to succeed in tackling global challenges, they encompass 17 objectives among which we can highlight targets such as having a sustainable economic growth, eradicating poverty, alleviating hunger, ensuring access to clean water and sanitation, promoting affordable and clean energy, and promoting a responsible consumption and production. The UN aims to achieve these goals by the year 2030, which has led to the adoption of the United Nations 2030 Agenda for Sustainable Development by all UN Member States. This strategic plan of action represents a collective commitment to advancing sustainability on a global scale (TWI, n.d.).

Since the establishment of the 17 Sustainable Development Goals (SDGs) in 2015, companies have had to face the challenge of comprehending their significance and taking them into account as a core component when having to make any strategic decision. Companies have been prompted to demonstrate their commitment to environmentally responsible practices due to the emphasis that has been made on corporate sustainability as a consequence of the escalating climate crisis (Economist Impact, n.d.). Businesses worldwide are actively embracing the SDGs, which provide a comprehensive roadmap for companies to make meaningful contributions to achieve a more sustainable future. Additionally, companies are starting to integrate the Environmental, Social, and Governance (ESG) factors into their operations due to the increasing concern of the investor community about these issues (KPMG, 2020).

This global emphasis on corporate sustainability is reflected in the EU's commitment to sustainability, which has demonstrated it through the development of initiatives such as the European Green Deal and by aligning itself with the United Nations' 17 SDGs. By means of this, the EU aims to address multiple, interconnected challenges while fostering inclusive growth and social cohesion. Sustainability is not only a desirable goal for the EU, but a necessity for the well-being of present and future generations, the prosperity of the economy and the preservation of the planet.

Complying with sustainability practices is no longer solely seen as a regulatory requirement, it is also a strategic imperative for companies. There is clear evidence that suggests that sustainable business strategies generate value. A study conducted by Kantar Consulting in 2020 revealed that purpose-driven businesses, who prioritize a clear purpose beyond just making profit, experienced a growth of 175% between the years of 2008 and 2020, whereas low-purpose brands, whose sole priority is having a financial gain, experienced a growth of 70% (Kantar Consulting, 2020)[4]. In other words, companies that focus on making positive contributions to the community in which they operate and to the environment, by integrating their values in their business model and decision-making process are better positioned. Sustainability is embedded in value creation, and it offers companies opportunities to grow, differentiate themselves from the rest, and to achieve long-term success. (Unilever, 2023).

Alongside this, the global push towards achieving a more sustainable scenario is significantly raising the investments that aim to support companies in their sustainability efforts. The European Green Deal has underlined that the transition to a sustainable economy by 2030 will require annual investments of at least €520 billion. Acknowledging that public funds alone are insufficient, it is imperative to mobilize private investments to achieve this ambitious goal (Speck et al., 2023)[5]. Now more than ever, institutional investors, asset managers, and financial institutions are taking environmental and social factors into account when making investment decisions, given that they recognize the risks associated with unsustainable practices and the potential that sustainable investments have in terms of generating return. Moreover, governments and international organizations are launching initiatives and providing incentives to help mobilize capital towards sustainable projects and businesses. According to the Sustainable Financing Observatory's (OFISO) annual report, sustainable financing in Spain totaled 60,788 million euros in 2023 (Consenso del Mercado, 2024)[6].

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[4]Kantar Consulting. (2020). Inspiring Purpose – Led Growth. *Kantar Consulting*. Purpose2020 (kantar.no)

[5]Speck, S., Paleari, S., Tagliapietra, S., & Zoboli, R. (2023, November 7). Investments in the sustainability transition: leveraging green industrial policy against emerging constraints. *European Environment Agency*. https://www.eea.europa.eu/publications/investments-into-the-sustainability-transition

[6]Consenso del Mercado (2024, February 5). La financiación sostenible movió 60.788 millones de euros en España en 2023, el 1% más. *Consenso del Mercado*. La financiación sostenible movió 60.788 millones de euros en España en 2023, el 1% más | Consenso del Mercado

Overall, it is evident that sustainability has become an increasingly pressing concern over the past decades, and stakeholders have increased their commitment to it by aligning themselves with these new priorities. For this reason, tackling greenwashing practices, which undermine credibility and pose risks to the success of transitioning to Net Zero, is crucial. Corporate commitments to addressing the challenge of climate change must go beyond appearances or pure marketing strategies. Clear regulations are essential to ensure that companies adhere to climate and sustainability principles. The recent 28th U.N. Climate Change Conference of the Parties (COP28) in Dubai provided a platform for country-level regulators to share insight about their successful sustainable practices and advance towards establishing robust guidelines on green claims. It is imperative for collaborative efforts to be made in order to successfully combat greenwashing, which was emphasized by the U.N. Secretary-General, who labeled greenwashing as a significant obstacle to meaningful environmental initiatives (Galán et al., 2024).

UNDERSTANDING GREENWASHING AND THE LACK OF A STANDARD REGULATORY DEFINITION

This section aims to explore the complex concept of greenwashing, providing an understanding of it and shedding light on the absence of a standardized universal regulatory definition, which contributes to the complexity surrounding this phenomenon.

Greenwashing practices typically involve misleading advertising campaigns or deceiving product information. Often, these practices fall under the general consumer protection regulations, given the lack of regulations on green claims in the majority of countries. For this reason, our analysis includes a specific focus on understanding greenwashing within the financial sector, as regulations on what can be claimed as green, and transparency have notably advanced in recent years. For instance, in the EU, where regulations on transparency regarding sustainable financial instruments are well-established, financial authorities are identifying greenwashing as a supervisory priority.

In other sectors of the economy, regulators and supervisors have yet to develop initiatives or criteria to address greenwashing. Furthermore, regulations outlining the requirements for labelling a product as green have not yet been approved. Despite the existence of a draft proposal of Directive in the EU, aimed at regulating the substantiation of green claims, an official regulation has not yet been implemented.

The emergence of the concept of greenwashing dates back to the year 1986, when 62-year-old environmental activist Jay Westerveld first spoke of greenwashing when criticizing hotels for encouraging guests to reuse the towels as part of a water conservation strategy, whilst they lacked substantial environmental initiatives that would address deeper environmental concerns (De Freitas Netto et al., 2020).

Many have approached the challenge of drawing up a concrete definition of greenwashing. According to the Corporate Finance Institute, greenwashing is a deceptive practice that organisations carry out which consists of promoting false, misleading, unsubstantiated, and incomplete assertions about the sustainability attributes of a product, service, or business operation. In other words, by means of these unethical practices, companies aim to portray themselves as environmentally friendly through marketing efforts, rather than dedicating their time and resources on actions that will actually reduce the company’s environmental impact (Edwards, 2024). Through this manipulative marketing technique, companies overstate their environmentally responsible actions to take advantage of consumers who prioritize purchasing in eco-conscious brands. Since its appearance, the concept of greenwashing has evolved, and with the emergence of Environmental, Social & Governance (ESG) considerations as a fundamental analysis framework, it has found itself adapting to new commitments. Due to this, modern interpretations of sustainability encompass not only environmental factors but also social and governance aspects, which has led to the expansion of the scope of potential greenwashing activities (Peterdy, n.d.). It is important to point out that, although sustainability is associated with ESG criteria, greenwashing practices are often inclined to place emphasis on the "E" in ESG.

THE ABSENCE OF A STANDARD REGULATORY DEFINITION

The absence of a standard regulatory definition for greenwashing has been a significant challenge despite the growing academic interest in the concept during the past decade (Ines et al., 2023). No universally accepted definition of greenwashing has emerged despite the efforts of various academic disciplines, and as a consequence, efforts to address greenwashing effectively have been hindered (Nemes et al., 2022).

Given that greenwashing continues to gain importance, the concepts definition continues to evolve, making it a target for policymakers and scholars. The absence of a regulatory definition further complicates the matter, leaving ambiguity around what constitutes greenwashing from a legal or regulatory perspective.

Several factors contribute to the challenge of reaching a consensus on defining greenwashing:

- **Discrepancies in the criteria used to substantiate a product or service as green.** There are debates regarding the validity of market measures and methodologies to assess environmental claims. For instance, claiming to use renewable energy by purchasing Guarantees of Origin (GO) certificates or carbon credits instead of investing directly in renewable energy can be contested. This is exemplified in the case of Budweiser, the beer giant that claimed to use 100% of renewable electricity in brewing, substantiating this assertion with the purchase of GO certificates (O'Doherty, 2024)[7].
- **Difficulty in determining what constitutes misleading advertising.** The use of specific words or images, such as the colour green, can significantly influence consumer perceptions. Furthermore, advertising electric vehicles with claims such as "zero emissions" could be misleading, as a car's production process generates emissions. However, claiming "zero emissions driving" may be considered valid, as demonstrated by the case of car manufacturer Ford in the UK (Roberts, 2024)[8].
- **Debate over the role of intentionality in greenwashing.** There is ongoing discussion regarding whether intention or negligence should be considered, given the complexities of evaluating misleading claims. Failure to address this issue risks falling into the trap of greenwashing or *greenhushing*, which is

[7]O'Doherty, C. (2024, January 4). Budweiser reprimanded for breach of advertising code with claims it uses 100pc renewable electricity in brewing. *Irish Independent*. Budweiser reprimanded for breach of advertising code with claims it uses 100pc renewable electricity in brewing | Independent.ie

[8]Roberts, G. (2024, February 21). Ford zero emission driving claim 'not' misleading. *FleetNews*. https://www.fleetnews.co.uk/news/ford-zero-emission-driving-claim-not-misleading

when companies choose to not communicate their sustainability efforts (Dhanini, 2023).

On March 22nd, 2023, the EU proposed the EU Green Claims Directive, aimed to address green claims and unfair commercial practices. Although the directive is pending approval at the European level and requires transposition by member states, it represents a significant step toward addressing greenwashing practices. Once implemented, the directive will provide a definition of what can be advertised or claimed as green or sustainable, offering specific guidelines distinct from the general consumer protection regulations governing advertising practices.

ANALYSIS OF THE CONCEPT DEFINITION ACROSS THE FINANCIAL SECTOR

In 2021, the Sustainable Finance Disclosure Regulation (SFDR) came into effect and it established requirements to comply with when classifying financial instruments, such as investment funds and insurance-based investment products, as sustainable. These criteria distinguish between funds categorized under Article 8 and under Article 9. Article 8 includes funds designed to promote environmental or social characteristics, while Article 9 refers to funds with sustainable investment objectives. This framework has prompted investment firms and asset managers to develop methodologies to justify the sustainability of their products and, at the same time, it has improved transparency by providing regulated templates for client communications (worldfavor, n.d.)[9].

In the financial sector, the term greenwashing is generally understood as a deceptive practice that involves the diffusion of misleading or exaggerated Environmental, Social, and Governance (ESG) claims. It encompasses cases where organizations present information within environmental statements where they overstate their commitment to sustainable business practices, products, or services, often with the aim of gaining marketing advantages. Such practices harm consumer trust and can pose significant risks, that range from reputational damage to potential legal consequences (Deloitte, 2024).

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[9] Worldfavor. (n.d.). SFDR: What is article 6, 8 & 9? *Worldfavor*. https://blog.worldfavor.com/sfdr-what-is-article-6-8-9

The Financial Services Institutions (FSIs) currently lack a standardized definition (Deloitte, 2024). Despite this, there is a growing momentum towards establishing a clear definition for the FSIs. The European Supervisory Authorities (ESAs), which comprises the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), and the ESMA, have published Progress Reports on Greenwashing in the financial sector. These reports outline a common high-level understanding of greenwashing which is applicable across banking, insurance, pensions, and financial markets. The ESMA Progress Report has been elaborated to offer insights into greenwashing, and it serves as a common reference for market participants and regulators to address this issue collectively (ESMA, 2023).

According to the ESAs, greenwashing practices consist of carrying out sustainability-related statements, actions, or communications that reflect the sustainability profile of an entity, financial product, or financial services inaccurately. Such misleading practices can harm consumers, investors, and other market participants, whether they are taking place intentionally or unintentionally and inside or outside the EU regulatory framework. In response to this issue, both the National Competent Authorities (NCAs) and the ESAs are working together to address greenwashing and protect consumers and investors' expectations and interest, uphold market integrity, and work on maintaining a trusted environment for sustainable finance (ESMA, 2023).

In November 2023, the European Securities and Markets Authority (ESMA) collaborated with other European regulatory authorities on the launch of a joint assessment that focussed on studying the prevalence of exaggerated ESG claims and on the evaluation of the effectiveness of existing regulations. This initiative aims to gather concrete examples to have a better understanding of greenwashing and the regulatory actions against it (Quinson, 2023).

Even though European regulatory efforts have managed to produce significant outcomes, inconsistencies among agencies and jurisdictions continue to impede progress. Without clarity and consistency when defining greenwashing, investors may possibly lose trust in funds that are labelled as sustainable, and this would potentially undermine the growth of investments in sustainable initiatives. Efforts to combat greenwashing have been most aggressive in Europe, where policymakers have been working on developing a common framework to address the issue. However, the challenge of defining greenwashing within the regulatory landscape persist, regulatory bodies such as ESMA have acknowledged the importance of tackling greenwashing but struggle to articulate a precise definition (Quinson, 2023).

FACTORS CONTRIBUTING TO THE DEVELOPMENT OF GREENWASHING

The objective of this section is to explore the factors that are identified as the main drivers of the complex and growing problem of greenwashing, and the importance to fight against it because of the risk of legitimate environmental efforts being undermined, and deterioration of consumers' confidence. We can highlight the following underlying causes as factors that contribute to the proliferation of greenwashing: lack of enforceability of international standards, competitive pressures, and market opportunities.

Firstly, the lack of enforceability of international standards. We will first analyze the role of governmental policies as a crucial factor that contributes to the proliferation of greenwashing. Despite the existence of different international standards on corporate non-financial information or ecolabels, there are hardly any rules, and the enforcement of these standards remains weak. This creates fertile ground for these fraudulent practices to take place. We must highlight the fact that even though these environmental regulations aim to incentivize businesses to carry out environmentally friendly practices, they often fall short in ensuring genuine environmental improvements. With the purpose of complying with the necessary requirements, gaining competitive advantages, and enhancing their public image without making substantive environmental commitments, companies may use non-substantiated green claims for their benefit. Moreover, in emerging markets where regulatory supervision is weak, multinational corporations exploit greenwashing practices with the sole purpose of maximizing their profits (Huong, 2020).

Furthermore, we must highlight the fact that companies seem to be lacking incentives to carry out sustainable practices. Despite the growing calls for transparency in sustainability reporting, business leaders are failing to see the benefits of prioritizing sustainable practices over deceptive ones, and this is allowing greenwashing to continue. Accountability and incentives are closely linked. By rewarding true environmental commitments, stakeholders such as regulators, investors, and consumers play a key role in driving positive change. The lack of clear expectations and standards is what makes this challenge so difficult to solve. While there are many frameworks and standards for measuring and reporting ESG practices, including the Global Reporting Initiative (GRI) standards, the European Sustainability Reporting Standards (ESRS), the EU Green Taxonomy, and the Corporate Sustainability Reporting Directive (CSRD), they are all inconsistent and confusing, allowing greenwashing practices to thrive. Moreover, another identified obstacle is the fact that these standards often lack the necessary rigor to drive truly sustainable outcomes, enabling these deceptive practices to go unchecked (Perks, 2023).

Secondly, we must take into account the competitive pressure that businesses suffer within the markets they operate in. Companies operating in highly competitive markets resort to greenwashing more frequently to try to gain a competitive advantage and increase their own market share by projecting an environmentally friendly image to stakeholders. By making use of such a strategic tool, environmentally conscious consumers will be attracted to the company and the brands reputation will be reinforced. This enables companies to outperform their competitors and capitalize on emerging market trends. Regarding companies that operate in emerging markets, it is possible for them to initially face a lower competitive pressure. However, as these markets grow out of being classified as emerging and competition in it intensifies, the temptation to engage in greenwashing tactics grows, especially in the absence of stringent regulatory oversight (Huong, 2020). Additionally, it is a company's management team who suffers the pressure of having to demonstrate engagement with rigorous ESG analysis, and they have to work on aligning the company's performance with the market expectations (Peterdy, n.d.). This pressure can make it very tempting for them to resort to greenwashing practices as a short cut to meet consumers environmental demands and maintain the company's competitive position in this increasingly demanding market (Perks, 2023).

As a third driver we have identified the market opportunities that emerge from carrying out greenwashing tactics. There is a growing demand for environmentally sustainable products and services, and because of this, consumers are focussing on supporting businesses that are commitment to sustainability. This scenario presents an opportunity for corporations that are seeking to capitalize on these consumer preferences. Through greenwashing practices, companies are managing to attract environmentally conscious consumers and cultivate a positive perception of their brand. This way, multinational corporations that count with extensive resources and a global reach, are well-positioned to exploit these market dynamics by employing greenwashing tactics to appeal to environmentally conscious consumers and gain a competitive advantage (Huong, 2020).

In summary, the interplay of lack of enforceability, competitive pressures, and market opportunities contribute to the proliferation of greenwashing among corporations. Despite regulatory efforts to curb greenwashing, loopholes in enforcement and the pursuit of competitive advantage incentivize companies to engage in deceptive environmental claims. Particularly in highly competitive markets, companies resort to greenwashing to capitalize on consumer demand for sustainable products. Addressing these issues necessitates enhanced regulatory enforcement, clear standards, and incentives for genuine sustainability practices to foster transparency and restore consumer confidence.

<u>CHAPTER 3: APPROACHES TO JUSTIFY A PRODUCT AS GREEN</u>

The regulatory landscape surrounding the pressing issue of greenwashing is evolving rapidly. Within this chapter, we are going to briefly scrutinize the main existing global regulations and regulatory initiatives aimed at tackling greenwashing. In addition, we will provide an overview of the current eco-labelling standards, thereby providing an understanding of the multi-faceted approaches to justifying products as green.

EXPLORING REGULATORY FRAMEWORKS: EXAMINATION OF KPMG SURVEY RESULTS ON GREENWASHING GLOBAL APPROACHES

The international community has acknowledged the damage resulting from greenwashing, and this has encouraged joint efforts as a means to combat misleading sustainability claims by implementing strict regulations. In the upcoming section, we will conduct a comprehensive review of the most recent and relevant proposed and adopted regulations which have been implemented in order to address greenwashing practices.

To properly carry out the analysis, we draw upon the findings of a comprehensive survey titled *"Mapping Global Approaches to Tackling Greenwashing"*. During my internship at KPMG, I have worked on the meticulous execution of this survey, which was distributed across various jurisdictions where KPMG has presence. The insights garnered from the 15-question survey have been instrumental to identify the different approaches employed by different jurisdictions to tackle the growing challenge of greenwashing, ranging from specific regulatory measures to alternative policies. The objective behind KPMG's initiative is to create a comparative guide illustrating how participating jurisdictions address the issue. This guide will serve as a legal risk map that will help multinational clients navigate the complexities of greenwashing regulations in the multiple jurisdictions where they operate.

The survey was distributed to 24 jurisdictions where KPMG operates, encompassing 12 in Europe and the Middle East (EMA), 7 in Asia Pacific (ASPAC), and 5 in the Americas. However, due to space limitations, we will only use the responses of four jurisdictions to redact this section of the chapter. We will commence by examining the regulatory framework in the United Kingdom, which will be followed by an analysis of the United States. Subsequently, we will delve into the European Union's regional regulations, with additional attention given to two EU jurisdictions: Spain and Norway.

UNITED KINGDOM GREEN CLAIMS CODE

The main legislative document that governs sustainable claims made within the United Kingdom is the **UK Green Claims Code**[10]. The Competition and Markets Authority (CMA) developed and published the UK Green Claims Code in September 2021 as a guide for businesses that make an environmental claim in the UK's market. The development of this regulation was pushed by a review of randomly selected global websites conducted by the CMA in 2021. The review revealed that 40% of online green claims could potentially be perceived as misleading for consumers (Competition and markets Authority, 2021)[11].

The Green Claims Code applies to all environmental assertions concerning products and services in the UK. According to this code, all claims must follow the specific requirements that the official document outlines.

- *"Claims must be truthful and accurate."*
- *"Claims must be clear and unambiguous."*
- *"Claims must not omit or hide relevant information."*
- *"Comparisons must be fair and meaningful."*
- *"Claims must consider the entire product or service life cycle."*
- *"Claims must be backed with evidence."*

In the event of failing to comply with the UK Green Claims Code, companies would have to face a new substantial fine (Ungoed-Thomas, 2023). This is due to legislative

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[10]CMA Guidance on environmental claims on good and services 2021 (U.K.) https://assets.publishing.service.gov.uk/media/61482fd4e90e070433f6c3ea/Guidance_for_businesses_on_making_environmental_claims_.pdf

[11]Competition and Markets Authority. (2021, January 28). Global sweep finds 40% of firms' green claims could be misleading. *GOV.UK*. Global sweep finds 40% of firms' green claims could be misleading - GOV.UK (www.gov.uk)

changes that were introduced in April 2023 empowering the Competition and Markets Authority (CMA) to regulate competition in digital markets and to impose strict penalties on companies that misuse green claims to successfully market consumer products (Stopps, 2023). As a result of these developments, guilty companies will have to face staggering fines that could amount to tens of millions of pounds. Moreover, large companies are now exposed to civil penalties of up to 10% of their global revenue for failing to comply with consumer legislation, encompassing greenwashing cases. In addition, individuals who breach these rules would have to face fines of up to £300,000 (Stopps, 2023)[12].

The severity of these penalties heightens both the financial and reputational risks that companies would encounter for engaging in deceptive greenwashing practices. Despite the clear and grave repercussions, greenwashing cases persist, which highlights the urgent need for a strengthened regulatory supervision and industry accountability to counteract misleading environmental claims.

UNITED STATES GREEN GUIDES

Within the United States, the US Federal Trade Commission (FTC) enforces the **Guides for the Use of Environmental Claims** (commonly known as the **Green Guides**[13]), which has been designed to prevent the circulation of avoid making environmental claims that could possibly be misleading for consumers. The US Green Guides was first issued in 1992, and after that, it has undergone multiple revision processes (Federal Trade Commission, n.d.).

At its core, the US Green Guides provide a comprehensive set of guidelines that offer recommendations and standards that companies and marketers should adhere to when

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[12]Stopps, N. (2023, June 6). The repercussions of breaking the Green Claims Code are significant. *FTADVISER*. ['The repercussions of breaking the Green Claims Code are significant' - FTAdviser]

[13]Federal Trade Commission, 2012 (U.S.) https://www.ftc.gov/sites/default/files/documents/federal_register_notices/guides-use-environmental-marketing-claims-green-guides/greenguidesfrn.pdf

communicating the environmental characteristics of their products or services through advertising and marketing channels. These guidelines cover various aspects such as labels and certifications, carbon offsets, recycling claims, biodegradable claims, compostable claims, etc. (Aryankalayil et al., 2023).

The FTC carries out periodical reviews and updates of the U.S. Green Guides for it to be aligned with the evolving sustainability landscape and the changing consumer preferences. Given that the last revision was carried out in 2012, in December 2022, the FTC decided to launch another review of the Guide with the purpose of making the requirements easier for companies to comprehend and implement. To facilitate this process, the FTC solicited public comments on potential changes to improve the Guide (Federal Trade Commission, 2022)[14]. Both companies and consumers should consider participating in these review processes that take place every ten years, as it presents itself as an excellent opportunity to contribute to the future shaping of green marketing in the U.S.

It is crucial to note that the US Green Guides are not legally binding, they were established by the FTC to help take action against marketers who are accused of engaging in unfair practices after proving that their claims were inconsistent (Reuters, 2023). This means that the guidelines do not impose sanctions in the event of non-compliance. It is therefore worth reflecting on the role and effectiveness of guidelines in a legal system such as that of the United States, which often relies on regulations with enforceable sanctions. Unlike regulations, which carry legal consequences if violated, guidelines such as the U.S. Green Guides serve as recommendations for companies and marketers to avoid making misleading environmental claims while avoiding the threat of litigation. This raises questions about the effectiveness of non-binding guidelines with voluntary compliance.

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[14]Federal Trade Commission. (2022, December 14). FTC Seeks Public Comment on Potential Updates to its 'Green Guides' for the Use of Environmental Marketing Claims. *Federal Trade Commission*. [FTC Seeks Public Comment on Potential Updates to its 'Green Guides' for the Use of Environmental Marketing Claims | Federal Trade Commission]

EUROPEAN UNION REGULATORY FRAMEWORK

In recent years, sustainability has made its way to the top of the EU's priorities due to the pressing challenges and risks posed by climate change, environmental deterioration, and the exhaustion of natural resources. It has been recognized that unsustainable practices not only endanger the environment, but they also affect the stability of economies and the well-being of society. For this reason, the EU has placed a strong emphasis on prioritizing sustainability as a main pillar of its policies (File, 2023).

As noted, the EU, as leader in this battle, has put forth several initiatives that aim to prohibit vague environmental claims and penalise companies that misuse labels such as "eco" and "green", with the ultimate goal of curbing greenwashing practices. However, all of the regulatory advances that the EU has made to resolve this issue are still pending to be enforced and transposed into the national legislations. We will now elaborate on the proposed EU directives to which we are referring to.

European Union Green Claims Directive

In the upcoming section, our attention will be directed towards the EU's proposed Green Claims Directive. To comprehensively analyse the main aspects and requirements outlined in this directive, we have retrieved the necessary information from the European Commission's official document of March 22nd, 2023: *Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on substantiation and communication of explicit environmental claims (Green Claims Directive)*[15].

The European Commission proposed the Green Claims Directive with the objective of addressing the growing concern that exists over the issue of greenwashing, and to promote transparency and credibility in environmental claims that companies make. Under this directive, companies will be required to provide evidence based on verifiable methods and scientific evidence to justify their environmental claims.

[15]Proposal for a Directive of the European Parliament and of the Council on substantiation and communication of explicit environmental claims (Green Claims Directive), 2023 (EU). https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023PC0166

In order to comprehensively address the issues raised and refine the text of the proposal to the highest possible level, the European Commission conducted several studies.

On the one hand, the European Commission became aware of the low consumer confidence in environmental claims, in view of the findings of a public consultation that the Commission initiated in 2020. The survey responses revealed that the general public was distrustful of environmental statements on products, given that responses received a low average rating of 1.57 out of 4.00 on the Likert scale. The responses of this scale ranged from 1 to 4, where lower ratings that received 1 point indicated low trust, and at the other end of the scale, responses indicating strong agreement received 4 points. Therefore, it is clear that the lack of consumer confidence in environmental claims is a legitimate concern that requires attention.

Furthermore, in 2020, the European Commission conducted a study that corroborated the veracity of this widespread consumer distrust. The study consisted of the analysis of 150 environmental claims, and it revealed that 53.3% of them provided misleading information regarding the product's environmental characteristics. The rise of this malpractice can be attributed to the absence of regulations regarding sustainability claims, which creates loopholes that enable companies to make unverified claims without facing any consequence.

The European Commission's proposal encompasses a comprehensive definition of **environmental claims** that must be kept in mind. The term is defined as: *"Any message or representation, which is not mandatory under Union law or national law, including text, pictorial, graphic or symbolic representation, in any form, including labels, brand names, company names or product names, in the context of a commercial communication, which states or implies that a product or trader has a positive or no impact on the environment or is less damaging to the environment than other products or traders, respectively, or has improved their impact over time"*.

The directive imposes numerous requirements on the companies it applies to, mandating adherence to specific criteria when issuing environmental declarations.

- All environmental claims must be supported by a methodology based on scientific evidence, that enables the identification of all of the environmental impacts.

- Alongside the general requirements for any environmental claim, the regulation introduces additional prerequisites for environmental labels and comparative claims.
- It is mandatory to periodically review and update the substantiation of environmental claims whenever circumstances that could impact the accuracy of the claim arise.

The aim of this new regulation is to ensure that consumers make decisions based on transparent and reliable information regarding the sustainability, durability and carbon footprint of products. The proposal will be enforced between 2024 and 2027, to give companies time to adapt their practices and meet these new requirements. Therefore, this means that starting in 2024, all environmental, ecological, and sustainable claims made by organizations will have to be verified by an accredited third party.

In response to this, the directive introduces verification procedures that establish protocols that aim to validate the credibility of environmental claims made by organizations.

- The verifier must be an independent third-party organization.
- The verifier should have the necessary expertise, equipment and infrastructure.
- When the verification is completed, the verifier will draw up a certificate confirming the accuracy of the claims.
- The certificate will be recognised by the competent authorities across the Union.

The requirements set out in this directive will affect all environmental claims made by traders that are engaged in business-to-consumer commercial practices within the EU framework. It is the responsibility of all EU Member States to ensure compliance with the Green Claims Directive, they will play a crucial role in overseeing and enforcing compliance within their respective jurisdictions. In the event of non-compliance, there are a number of key aspects that Member States will have to take into account when determining the type and level of penalties that will be imposed to these unlawful companies. Among others:

- The nature, gravity, scope, and duration of the infringement.
- The financial stability of the responsible legal entity.

- The economic benefits derived from the infringement.
- Past instances of non-compliance.

The adoption of this directive marks a significant step in the European Commission's broader efforts to implement the European Green Pact, a plan aimed to transition the EU towards a sustainable and circular economy. Furthermore, the proposed directive would lead to greater standardization with respect to the regulation of environmental claims across the EU. By establishing a standard framework for the verification of green claims, the directive avoids a potential market fragmentation that would have been caused by the introduction of diverging national approaches in the absence of a proposal at EU level.

By holding companies accountable for their environmental claims, the Green Claims Directive contributes on building consumer trust, driving innovation in sustainable practices, and supporting the EU's sustainability goals.

Empowering Consumers for the Green Transition[16]

On January 17th, 2024, the European Parliament adopted the text of the proposal for a directive of the European Parliament and the Council on the proposal for a directive of the European Parliament and of the Council on amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information. The directive will introduce a ban on misleading environmental claims such as "climate neutral" or "climate positive" within EU borders. It was approved by the Parliament with 593 votes in favor, 21 votes against and 14 abstentions. Empowering consumers for the green transition is at the core of the European regulatory strategy. The aim of the European Parliament's recent directive is to combat the widespread greenwashing practices, and, particularly, to ban the use of misleading and vague environmental claims on products. This new directive will complement the upcoming Green Claims Directive, which will further clarify the conditions under which environmental claims can be made (European Parliament, 2024).

[16] Empowering consumers for the green transition, 2024 (EU). https://www.europarl.europa.eu/doceo/document/TA-9-2024-0018_EN.pdf

The directive enforces a prohibition on generic environmental claims, restricting the use of ambiguous terms such as "environmentally friendly", "natural", "biodegradable", "climate neutral", or "eco", except when these are substantiated by credible evidence that is validated by an authorized body. The proposals text is particularly strict about how companies can support their claims. Specifically, assertions such as "climate-neutral" or "climate-positive", which depend on carbon dioxide (CO_2) emissions, face a complete prohibition within the internal market. These common market claims are usually insufficiently substantiated and a part of marketing campaigns (Greenfield, 2024).

In a nutshell, companies that state that their products or services are climate neutral, biodegradable or environmentally friendly must substantiate their claims. The use of carbon schemes to substantiate such claims is expressly prohibited.

Moreover, the proposed directive tackles an additional concern that has been brought up by both regulators and stakeholders; the confusion caused by the proliferation of sustainability labels and the lack of comparative data. To solve this dilemma, the recent directive establishes that the EU will only authorize sustainability labels that are either supported by official certification schemes or established by public authorities. By means of this, the measure plans to enhance consumers' confidence by guaranteeing the credibility of these labels. Additionally, sustainability labels will also undergo a much stricter scrutiny which would consist of the following requirement: a third-party verification that would help maintain the credibility and reliability of these labels. Environmentally friendly products must be certified by accredited schemes such as EU Ecolabels. By virtue of this directive, Member States have the responsibility of appointing the "competent national authority" that will be in charge of certifying products (O'Sullivan, 2024).

Furthermore, the directive also clarifies that advertising a product or a company as environmentally friendly will no longer be admissible if only a minor aspect of the product or company has had improvements within the area of sustainability (O'Sullivan, 2024).

The law makes an emphasis on products durability, and it encourages both producers and consumers to prioritize durable goods when making decisions. Regarding this aspect, the directive will introduce a new label that will highlight products that have extended guarantee periods, and it explicitly prohibits claims concerning a products durability that are not substantiated by evidence or testing. The directive seeks to avoid any suggestion that might encourage a premature replacement of expendable products (such as batteries that are designed to be used and replaced regularly) and any misleading representation of a good as repairable when it does not meet the necessary criteria for repairability (Euronews, 2024).

The directive has been approved by the European Parliament and it is now pending for final approval by the European Council. Once this stage is completed and the directive is adopted, it will be published in the Official Journal, which will initiate a 24-month period within which all Member State governments will have to transpose the directive into national law (European Parliament, 2024). The adoption of this directive, complemented by the Green Claims Directive, paves the way for a well-defined legal framework in the field of sustainability, encouraging a future where environmentally conscious practices thrive.

Spain and Norway's Responses to Greenwashing Practices

As we have highlighted above, no specific regulation to combat greenwashing has yet been enforced in the EU. Due to this, companies and regulators are currently relying on existing marketing regulations to control their environmental advertising claims. In other words, while pending for the introduction of EU measures against greenwashing, companies rely on their respective national marketing regulations, which give priority to consumer protection.

Examples of national marketing regulations that serve as guiding principles for companies when they develop marketing claims are the following: In Spain, the **Ley**

General de Protección al Consumidor y Usuario[17], and in Norway, the **Marketing Control Act**[18].

On the one hand, according to the Norwegian Marketing Control Act which entered into force in 2009, greenwashing is prohibited, yet it does not provide a precise definition of the concept. Under this Act, marketing claims, including those concerning the environment, must be substantiated with accurate and up to date documentation. Failure to comply with the Act may result in sanctions imposed by either the Consumer Authority or the Market Council. These penalties could consist in either a restriction on the use of the unlawful environmental statement, or a fine, whose magnitude will depend on the severity, scope, and impact of the infringement (Forbrukertilsynet, 2020).

In Norway, the Consumer Authority is empowered to verify whether an alleged environmentally friendly product truly complies with both the Marketing Act and the Sustainable Information Act, along with adhering to the EU-taxonomy and SFDR regulations (CMS, 2024).

On the other hand, Spain's consumer protection law, which was implemented in 2007, includes relevant provisions concerning advertising and assertions regarding green or eco-friendly products. While this law does not address green product advertising with the same precision as other regulations, it incorporates general provisions designed to safeguard consumers against misleading or false advertising practices (RDL 1/2007, November 16).

The law prohibits advertising that misleads consumers in regard to the fundamental attributes of the products or services being promoted. This encompasses any claim made about a products ecological or environmental property that lack sufficient evidence or substantiation (RDL 1/2007, November 16).

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[17]España. Real Decreto Legislativo 1/2007, de 16 de noviembre, por el que se aprueba el texto refundido de la Ley General para la Defensa de los Consumidores y Usuarios y otras leyes complementarias. Boletín Oficial del Estado, 30 de noviembre de 2007, núm. 287.

[18]Forbrukertilsynet. (2020, October 16). The Consumer Authority's guidance on sustainability claims used for marketing purposes. *Forbrukertilsynet*. The Consumer Authority's guidance on sustainability claims used for marketing purposes - Forbrukertilsynet

The complex regulatory landscape that multinational companies must face when addressing potential greenwashing allegations is what prompts global firms with extensive resources, such as KPMG, to create comprehensive comparative guides of this extent. These guides are invaluable tools that can be shared with international clients to offer them clarity and guidance regarding these complex regulations.

OVERVIEW OF THE CURRENT GREEN LABELLING STANDARDS

Green labelling standards play a crucial role in enhancing sustainability efforts and guiding consumer's decision-making process. These standards are a valuable tool for the identification of products and services that meet specific environmental criteria, they help consumers make informed choices that are aligned with their environmental values and preferences. By providing clear and transparent information about the environmental attributes of products, green labelling standards help to promote sustainable consumption trends and the movement towards a more environmentally responsible economy. In this section, we will briefly explore the current state of art of green labelling standards with the purpose of understanding how they are organised and their implication on sustainability and consumer behaviour.

It is imperative to examine the mechanisms by which these standards function. One such mechanism is the use of eco-labels. Eco-labels are easily identified symbols that are attached to product packages or included in online catalogues. They are designed to help consumers and institutional buyers quickly identify those products that meet certain environmental performance standards, thereby qualifying for the "*environmentally preferable*" recognition (United States Environmental Protection Agency, 2023). They assure consumers that the product they are purchasing is beneficial for the environment. Furthermore, eco-labels offer manufacturers a differentiator as a means to distinguish their products from competing brands and contribute to the raising awareness of the importance of environmental performance across various aspects, including the buying and selling of products (Ferris, 2022). These labels can be administered by governmental bodies, non-profit environmental advocacy organizations, or private sector entities. For eco-labels to be granted, third parties must assess compliance with several environmental criteria's while considering the product's life cycle. The goal of eco labelling is to inform consumers about the superior environmental standards of labelled products, and to encourage both consumers and producers to prioritise the use and production of such environmentally friendly products (Rusko et al., 2013).

There are different types of eco-labels, and they are classified as either single-attribute or multi-attribute. Single-attribute ecolabels focus on a specific phase of a products life cycle, or it addresses a specific environmental issue, such as Volatile Organic Compound (VOC) emissions released when using the product. Meanwhile, multi-attribute ecolabels address the entire life cycle of a product, including its manufacturing, its use, its maintenance and its disposal, while also addressing a wide range of environmental concerns such as energy consumption, chemical use, and recycling practices (United States Environmental Protection Agency, 2023).

Ecolabels were first introduced in the 1970's, and since then, they have had to adapt and evolve in order for them to be aligned with the changing dynamics of the sustainability landscape, and the increasing demand of the sector. In recent years, there has been a significant surge in the number of eco labelling programs worldwide, with over 260 active sustainability standards across 15 different business sectors. In an attempt to standardise eco-labels, the International Organization for Standardization (ISO) established three different categories of eco-labels (Ferris, 2022).

- Type I Eco-labels – The "classic" eco-label, which evaluates the environmental performance of a product in comparison to other products that have a similar function (Ecosystems United, n.d.). The "classic" eco-label is:
    - Designed to be consumer-friendly and informative.
    - It is granted by a certified third-party organisation.
    - It is based on the fulfilment of specific criteria.
    - It is often supported by government entities.
    - Evaluation and selection requirements are available to the public.
    - Certification is valid for a specific time period, after which recertification is required for products or services.

  Type I eco-labels are considered the "gold standard" because they involve an independent certifying body. An example of a Type I Ecolabel is the well-known EU Ecolabel (Ferris, 2022).

- Type II Eco-labels – Self-declaration claims, which are assertions made by manufacturers, importers, retailers, or distributors regarding the environmental attributes of a product or service (Ecosystems United, n.d.). This type of ecolabel is:
    - Self-declared.
    - Focused on a particular quality of a product.
    - Not necessarily independently verified.

- Type III Eco-labels – Environmental declarations, which consist of voluntary statements regarding the sustainability of a product or service's entire life cycle (Ecosystems United, n.d.). This category of ecolabel is:
    - May or may not be certified by a third party.
    - It does not certify any specific quality of a product or service.
    - It enables independently researched conclusions on the overall sustainability of the product or service when compared to others.

The increasing demand for environmentally friendly products has prompted producers to create more sustainable products. As a result, there has been an increase in the environmentally friendly available options in the market for both individuals and organizations. However, due to this abundance of choices, it is crucial to remain alert against potential greenwashing. Stakeholders must be cautious when encountering declarations that lack independent verification. Products that emphasise sustainability with a single claim, may conceal less environmentally friendly practices in their overall production. It is essential to delve beyond surface-level statements and thoroughly examine a product's sustainability credentials (Ferris, 2022).

CHAPTER 4: BUSINESS PERSPECTIVE

We will dedicate this chapter to understanding the business perspective of greenwashing, given the key role that companies play in shaping environmental policies. Our aim is to provide a comprehensive analysis of the motivations that lead companies to engage in greenwashing practices, the associated risks, and real case studies that illustrate the consequences of getting entangled in these deceptive practices.

CORPORATE MOTIVATIONS FOR ENGAGING IN GREENWASHING PRACTICES

Fuelled by increasing calls from political figures to urgently address the issue of climate change, there has been a notable increase in enthusiasm to invest in environmentally friendly initiatives during the last few years. This eagerness among investors is evidenced by the rapid rise of the valuation of eco-friendly companies, since over 40 of such companies have managed to triple their share prices since the beginning of 2019. To further support this growing trend among investors, improved reporting mechanisms are crucial. These mechanisms can help expose the gaps between a company's stated environmental commitments and the company's actual sustainable practices. By providing greater transparency, investors can allocate their capital towards initiatives that truly contribute to climate change mitigation. This trend can be exemplified by Tesla Inc., a company known for its commitment to environmental sustainability. Tesla's remarkable performance in the market demonstrates the growing interest in companies aligned with these principles (The Economist, 2021).

However, in the middle of this green boom, the concerning phenomenon of greenwashing has emerged. It is evident that greenwashing has emerged as a profitable marketing tactic, underpinned by "*eco-opportunism*", in which companies use strategies to exaggerate their minimal sustainability efforts and present them as evidence of their dedication to environmental responsibility. (Nygaard et al., 2022).

As previously mentioned, there has been a rise of ESG investments. However, a recent analysis carried out by The Economist regarding the integrity of ESG funds revealed that many of the world's largest ESG funds are still supporting fossil-fuel producers and other environmentally harmful industries (The Economist, 2021). In connection to this, according to an analysis carried out by RepRisk[19], over 50% of the instances of greenwashing by global banks and financial service firms, between 2022 and 2023, were associated to oil or fossil fuel companies (RepRisk, 2023). This highlights how easy it can be to manipulate ESG investments, and how difficult it is to distinguish between authentic sustainability commitments and superficial green claims. In this context, corporations may be incentivized to engage in greenwashing practices and take advantage of the growing demand for environmentally friendly investments, that could enhance their market value and attract new investors (The Economist, 2021).

There are numerous reasons why companies engage in greenwashing practices, but the main motive is to make their products appear more sustainability friendly and socially responsible, which would potentially increase their sales volumes or rise their products prices. The recent rise of investment into ESG funds has made it possible for firms with strong ESG credentials to obtain a higher valuation than their competitors that lack ESG credentials. For that reason, these companies may experience a decrease in their cost of capital given that their stocks would be valued at a higher price, meaning that they would have to issue fewer shares to generate the necessary funds to finance their operations. Therefore, it is evident that making a company appear more sustainable only carries upsides, unless the claims are shown to be false (Willis et al., 2023).

The general public's attitude towards sustainability is not just "talk", it has had a significant influence in the shaping of these market trend and behaviours. A survey carried out by McKinsey & Company in 2020 to U.S. consumers[20] determined that more than 60% of respondents are willing to pay a higher price for products with sustainable packaging. (Feber et al., 2020). Additionally, a joint study conducted by McKinsey &

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[19]RepRisk. (2023). On the rise: navigating the wave of greenwashing and social washing. *RepRisk*. https://www.reprisk.com/news-research/reports/on-the-rise-navigating-the-wave-of-greenwashing-and-social-washing

[20]Feber, D., Granskog, A., Lingqvist, O., & Nordigarden, D. (2020, October 21). Sustainability in packaging: Inside the minds of US consumers. *McKinsey & Company*. https://www.mckinsey.com/industries/packaging-and-paper/our-insights/sustainability-in-packaging-inside-the-minds-of-us-consumers

Company and NielsenIQ[21] explored the sales growth of products that claim to be environmentally and socially responsible within the United States. Consumer spending within the U.S. exceeds $14 trillion annually, and it constitutes two-thirds of the country's Gross Domestic Product (GDP). A significant portion of this expenditure is directed towards everyday Consumer Packaged Goods (CPG), such as food, beverages, cosmetics and cleaning supplies. Given the immense scale of the CPG sector, which employs millions of individuals and generates trillions of dollars in sales annually, the study highlights the importance of these products to promote a sustainable and inclusive economy given the new consumer trends in today's society (Frey et al., 2023).

In conclusion, the corporate motivations for engaging in greenwashing practices are quite complex, and as we have laid out, they are mainly driven by financial incentives, market pressures, and the need to satisfy these new consumer preferences. In the short term, greenwashing may offer immediate benefits for companies aiming to profit from the growing demand for sustainable products and investments, but in the long term, the consequences of these practices will pose significant risks for both businesses and society, as it contributes to the perpetuation of unsustainable practices and undermines true efforts to address the pressing environmental challenges.

RISKS ASSOCIATED WITH GREENWASHING PRACTICES

In this section, we will explore the various risk that companies may face if they are associated with greenwashing practices. Such risks can range from issues such as corporate reputation and impacting its stakeholder, operational risks to the company's core operations, and litigation risks.

[21] Frey, S., Bar, J., Doshi, V., Malik, A., & Noble, S. (2023, February 6). Consumers care about sustainability—and back it up with their wallets. *McKinsey & Company*. https://www.mckinsey.com/industries/consumer-packaged-goods/our-insights/consumers-care-about-sustainability-and-back-it-up-with-their-wallets

Since concerns about sustainability issues have become more important among consumers, employees, investors, and suppliers, it can be anticipated that businesses that are caught up in greenwashing scandals are likely to face more damage to their reputation. The growing use of social media has given environmental activists the power to spread greenwashing scandals to a wider audience. Consequently, this has increased the potential damage to companies' reputations, and has led to even greater consumer scepticism and reluctance to purchase (Nygaard et at., 2022).

It is difficult to quantify the reputational risk of greenwashing, but it is expected to increase over time. Consumers say they are willing to boycott brands whose behaviours are unfriendly to the environment, while investors are diverting their investments to more conscientious alternative companies. Moreover, employees want to work for organizations that are transparent about their ESG efforts.

The practice of greenwashing has the potential to corrode consumers trust in the so-called "green" markets, and, as we have mentioned before, it can even provoke violent reactions such as boycotts. Recent findings from the Natural Marketing Institute underline the effect of greenwashing on consumer behaviour, particularly among Millennials. A significant portion of this age group refuses to buy from companies or brands that are perceived as environmentally irresponsible (Nygaard et at., 2022). A significant majority of 66% of U.S. consumers have expressed their willingness to pay more for sustainable products, however, 55% of them have stated that they would stop buying from brands proven to engage in deceptive sustainability claims (Flynn, 2023)[22].

In light of recent trends, we can observe that consumers reflect growing concerns for sustainability, and a growing reluctance towards these deceptive practices. There are surveys that indicate a widespread lack of trust in brands' ESG claims, particularly among the Gen Z generation, with 88% of them expressing this distrust (Flynn, 2023).

[22]Flynn, J. (2023, November 14). 20+ SHOCKING GREENWASHING STATISTICS [2023]. *ZIPPIA*. https://www.zippia.com/advice/greenwashing-statistics/#greenwashing_prevalence_statistics

The consequences of greenwashing go beyond consumer behaviour given that these practices can affect the company's financial outcomes and it can cultivate distrust among its stakeholders. Companies found to be engaged in greenwashing practices have suffered a 1.32% drop in customer satisfaction scores, which subsequently has led to tangible impacts on both its net earnings and its Return on Investment (ROI). In terms of employees' opinion on this matter, a significant number express concerns about possible greenwashing practices within their organizations, with 43% suspecting their company's involvement in such practices. Additionally, 83% of them feel like that their company is falling short in its sustainability efforts. Unfortunately, despite these concerns raised by employees, the actions taken by executives remain unchanged. This disparity between employee perceptions and executive actions highlights the urgency for companies to commit to sustainability and communicative practices in a transparent manner. It is crucial for companies to align their internal culture and their external messages with the evolving consumer expectations and the new ethical imperatives (Flynn, 2023).

In essence, greenwashing does not only affect a company's finances, we have seen that it also has the ability to harm its reputation and extend distrust between its stakeholders. To address these risks, companies must start prioritizing sustainability and committing to it, they must communicate openly, and take proactive measures to mitigate these harmful marketing practices.

ESG LITIGATION, REGULATORY AND PENALTY RISKS

Companies involved in misleading environmental marketing practices may face various risks that can span from legal liabilities to regulatory scrutiny and financial penalties. A significant concern for these companies is the possibility of consumers or advocacy groups to initiate a litigation process, with the support of expert legal counsel, if they are suspicious of greenwashing practices.

Financial services regulators across multiple markets, such as the ESMA, are already taking tough action against greenwashing claims, and the penalties regarding this issue are set to increase. Regulatory authorities such as ESMA are exploring measures to counter greenwashing more effectively and strengthen their ability to take action against such practices. However, it is critical to recognize that greenwashing compliance and regulatory risks extend beyond financial services. With non-financial services regulators stepping in, a much broader scope of businesses faces potential issues and almost every organization could be subject to scrutiny.

The Volkswagen emissions scandal serves as an example of the immense financial repercussions of greenwashing. In 2020, the company faced a staggering $33.3 billion fine for falsifying its emission reports related to AG Clean Diesel (Flynn, 2023). The confusion surrounding ESG definitions, combined with the evolving regulatory framework increases the legal risks for businesses operating in the ESG landscape.

The growing challenge for multinational corporations to have a clear picture of the complex regulatory framework that applies across the different jurisdictions and industries, along with the shifting criteria from regulatory authorities, highlights the importance of anticipating ESG trends and regulatory changes. Anticipating these trends and changes is key for the sustainable transformation of a business. Mistakes or falling behind in these demands may have a significant impact in the reputation and position of the business. Proactively analysing the ESG opportunities, challenges, and risks enables companies to differentiate themselves and effectively manage the sustainable transformation. Moreover, there is a rising tendency to use litigation as a strategy to push companies to change their corporate behaviour and start their transition to Net Zero. Stakeholders are introducing ESG analysis into activities such as Mergers & Acquisitions (M&A), restructuring for decarbonization purposes, financing, and investments.

SUPPLY CHAIN AND OPERATIONAL EFFICIENCY RISKS

Incorporating greenwashing considerations into a company's strategy and operations is crucial because of the risks it poses to the integrity of the company's supply chain and the effectiveness of its core operations. Beyond its typical association with marketing strategies, the impact of greenwashing extends to a company's supply chain because of the sustainability claims that they make about their supply chain without substantiating them with tangible actions (Faster Capital, n.d.).

The complexity of today's interconnected supply chains exacerbates this risk, as companies with extensive global networks find it difficult to see and manage all aspects of their operations effectively. Relying on numerous suppliers across different continents can lead to a lack of transparency and impede sustainable initiatives. This lack of control increases the likelihood of greenwashing within a company's supply chain, due to the fact that corporations may find it challenging to verify the environmental assertions made by their suppliers (Diniz et al., 2023).

Moreover, the lack of transparency and control within the supply chain due to greenwashing practices impedes progress toward Sustainable Supply Chain Management (SSCM) goals. SSCM goals encompass objectives such as reducing environmental impact, promoting ethical practices, and ensuring social responsibility throughout the supply chain. Genuine sustainability actions are crucial to achieve these SSCM objectives. However, greenwashing creates barriers to this transition by perpetuating misleading information and undermining the credibility of sustainability efforts. This misalignment between stated commitments and actual actions can lead to inefficiencies, wasted resources, and missed opportunities for improvement, ultimately compromising operational efficiency (Diniz et al., 2023).

Examples of greenwashing in supply chains are common, especially among fast fashion brands that falsely claim to use sustainable materials while still engaging in exploiting labor practices. Similarly, companies may promote the use of biodegradable packaging that ends up in waste disposal sites (Faster Capital, n.d.).

Consumer awareness and engagement are crucial to hold companies accountable of their sustainability promises. By conducting research and supporting businesses with transparent and credible sustainability initiatives, consumers can encourage positive transformations. Recognizing the prevalence and impact of greenwashing, along with taking proactive measures, is crucial to achieve a truly sustainable supply chain (Faster Capital, n.d.).

The impact of greenwashing on operational efficiency within the supply chain is significant. Companies that prioritize greenwashing over genuine sustainability practices may misallocate resources, concentrating on superficial environmental initiatives rather than making substantial improvements. This misalignment can lead to resource wastage, overlooked chances for enhancement, and ultimately, diminished operational efficiency (Diniz et al., 2023).

To address these risks, organizations must prioritize transparency, accountability, and genuine sustainability practices. By fostering close relationships with suppliers, implementing effective certification programs, and promoting corporate leadership in sustainability initiatives, companies can mitigate the impact of greenwashing and enhance their operational efficiency. Consumer awareness and support for transparent and verifiable sustainability practices also plays a crucial role in holding companies accountable and driving positive change in the industry (Diniz et al., 2023).

In conclusion, greenwashing in the supply chain poses significant challenges that require proactive measures to promote transparency and authenticity. By acknowledging the complexities of greenwashing and taking tangible steps to ensure genuine sustainability practices, companies can safeguard their supply chains, protect their reputation, and contribute to a more environmentally responsible future. It is clear that greenwashing in the supply chain is a complex issue with many different factors to consider. By staying informed and supporting truly sustainable practices it is possible to work towards a more environmentally responsible future.

GREENWASHING CASES AS DEMONSTRATIVE EXAMPLES

CASE STUDY 1: SHELL PLC [23] [24]

Shell plc, the multinational energy company has been accused of greenwashing practices, and regarding this matter, Global Witness (NGO focussed on issues related to human rights, environmental protection, and corruption) has filed a complaint against Shell to the U.S. Securities and Exchange Commission (SEC) (Hijazi, 2023).

Global Witness claims that Shell is misleading its investors by inflating the company's overall investment in renewable energy sources. They believe that the energy company is lumping its gas-related investments together with its investments on

[23]Hijazi, J. (2023, February 16). Shell Greenwashing Challenge Highlights Risk of ESG Claims. *Bloomberg Law*. Shell Greenwashing Challenge Highlights Risk of ESG Claims (bloomberglaw.com)

[24]Segal, M. (2023, February 2). Climate Group Accuses Shell of Greenwashing in Complaint to SEC. *ESGtoday*. Climate Group Accuses Shell of Greenwashing in Complaint to SEC - ESG Today

renewable energy, giving the impression that the company is directing larger portions of investments towards renewable energy than it actually is (Hijazi, 2023).

When announcing the complaint, Global Witness stated the following (Segal, 2023):

"Despite fossil fuel giant Shell claiming to spend 12% of its annual expenditure on "Renewables and Energy Solutions", we found that in reality the company only spends 1.5% of its overall expenditure on solar and wind power generation. Alarmingly, it appears that a significant portion of Shell's spending on "Renewables and Energy Solutions" actually goes to investments in climate-wrecking gas."

In the company's financial report, Shell announced that its capital spending in the Renewables and Energy Solution was of $2.4 billion in 2021. However, Global Witness remarks in the filed complaint that the company only directed $288 million towards wind and solar power generation. For this reason, this NGO calls on the SEC to investigate the possibility of Shell being involved in greenwashing practices (Global Witness, 2023).

After being accused of this, Shell has confidently stated that they have followed all of the SEC requirements on their financial disclosures (Segal, 2023).

Concerning the greenwashing risks that we can highlight in the Shell plc case study, the allegations suggest that Shell may be misrepresenting its investments in renewable energy sources, and therefore misleading its investors and stakeholders about the company's environmental commitments.

These practices could have significant repercussions. Firstly, it could damage Shell's corporate reputation, and its impact on stakeholders could be substantial. If the accusations are proven true, investors may lose confidence, leading to a loss of investment and shareholder value, and consumers may also choose to disengage from the company. Secondly, if the U.S. SEC's investigation uncovers evidence of misleading or false disclosures regarding renewable energy investments, Shell may face regulatory penalties or litigation. Additionally, investors who suffer financial losses due to misrepresentation of environmental commitments may pursue legal action against the company. Lastly, the accusations against Shell also pose risks to its supply chain and operational efficiency. Suppliers and partners may reconsider their collaborations with Shell if they think that the company is engaging in unethical practices. This could lead to disruptions in the supply chain, affecting operational efficiency and increasing costs for Shell.

CASE STUDY 2: DELTA AIR LINES [25] [26]

On May 30, 2023, a California resident who has made use of the services provided by Delta Air Lines since March 2020 filed a lawsuit against the company in the United States District Court for the Central District of California, stating the following: *"Delta's representations of carbon neutrality are probably false and misleading"* (McLain et al., 2023).

The critical aspect of this class action is a claim that had been made by the airline in which it asserts that it is carbon neutral. This claim is largely based on the company's use of carbon offsets to balance out its greenhouse gas emissions. In 2021, Delta Air Lines released a commercial in which the company highlighted its efforts to achieving the status of being the first global carbon-neutral airline. This ambitious commitment was originally presented by the airline in February 2020, alongside a plan to spend $1 billion over the next decade to mitigate Delta's greenhouse gas emissions (Pierre-Louis, 2023).

Delta Air Lines efforts to being environmentally friendly are not accurate because the market for carbon offsets in which the airline relies on is inconsistent. Companies should be extremely cautious when promoting their carbon reduction achievements. They should avoid making exaggerated claims that may lead to potential litigation claims (McLain et al., 2023).

The lawsuit declares that Delta Air Lines is grossly misrepresenting the total environmental impact of its business operation in its advertisements, corporate announcements, and promotional materials. The litigator argues that these

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[25]McLain, B. J., & Waldhauser, C. K. (2023, June 15). Carbon Neutrality Suit Against Delta Airlines Signals the Arrival Time of "Greenwashing" Litigation. *Foley & Lardner LLP*. https://www.foley.com/insights/publications/2023/06/carbon-neutrality-suit-delta-airlines-greenwashing/

[26]Pierre-Louis, K. (2023, June 14). A Glendale woman's greenwashing lawsuit against Delta Air Lines aims to set a precedent. *Los Angeles Times*. https://www.latimes.com/business/story/2023-06-14/glendale-womans-greenwashing-lawsuit-against-delta-air-lines-aims-to-set-precedent

misrepresentations have allowed Delta Air Lines to gain an unfair market share and charge higher prices to consumers (McLain et al., 2023).

As mentioned before, the core of the class action revolves around the company's reliance on its involvement in the carbon offset market and its assertion of being "the world's first carbon-neutral airline." The petitioner declares that these carbons offset markets lack reliability due to inaccurate accounting, questionable crediting practices, delayed and speculative emissions reductions, and projects that are susceptible to disease, natural disasters, and human intervention, thereby lacking permanence. Additionally, the customers representative claims that Delta Airlines' alleged misrepresentations led them to purchase flight tickets at inflated prices, as they would not have done so if not for Delta Airlines' "carbon neutral" claims (Pierre-Louis, 2023).

The allegations suggest that Delta Air Lines may be misrepresenting its carbon neutrality claims, thereby misleading consumers and gaining an unfair market advantage. Firstly, the lawsuit could have enormous repercussions on Delta's corporate reputation and on its stakeholders. If the allegations of greenwashing are proven true, consumers may lose trust in the airline, and investors may reconsider their associations with Delta, which would ultimately affect its competitiveness in the market. Secondly, if the court determines that Delta's carbon neutrality claims are false or misleading, the airline may face regulatory penalties. Additionally, consumers who feel misled by Delta's claims may pursue legal action against the company, seeking compensation for any financial losses incurred due to inflated prices.

CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

In this final chapter, we will summarize the main findings of our comprehensive investigation regarding the issue of greenwashing within the corporate landscape. We have reflected on the multifaceted motivations that are driving companies to engage in these deceptive practices, the numerous risks associated with such behavior recognizing their profound implications for businesses and society at large, and the global regulatory landscape that is working on how best to address this issue. Following these considerations, our aim is to offer comprehensive recommendations to companies that will be required to navigate the soon to be mandatory landscape of greenwashing regulations, sustainability challenges and upholding genuine environmental commitments.

MAIN FINDINGS

We will now present the main findings of our study. By providing key insights about the intersection of sustainability and greenwashing, we have pointed out the need for genuine sustainable practices to cope with the mounting environmental challenges. Our reflections have underscored the transformation of sustainability as a strategic priority for businesses. This shift is driven by the evolving consumer preferences, where sustainability has started to become a priority, and by the increasing interest of investors who have recognized sustainable practices as advantageous in the long term. The introduction of the UN's SDGs and the EU's commitment to sustainability through initiatives such as the European Green Deal have been key developments in the shaping of corporate behavior. Despite the changing landscape, greenwashing practices have risen presenting ongoing challenges. Regardless of the growing academic interest on the issue, there is no standardized regulatory definition for greenwashing, which complicates efforts to combat it effectively. Factors contributing to the proliferation of these deceptive practices include the lack of enforceability of international standards, competitive pressures, and market opportunities. Regulatory clarity and enforcement are crucial to address deceptive environmental claims and restore consumer confidence.

Throughout our analysis we have examined the evolving regulatory landscape that aims to combat greenwashing and justify products as green. We have carried out this approach by reviewing global regulations and initiatives targeting deceptive environmental claims, which we have drawn from the KPMG international comprehensive survey which data has been used for the purposes of this report. The survey revealed diverse approaches employed worldwide to tackle greenwashing, ranging from specific regulatory measures to alternative policies. We have mainly focused on certain geographies such as UK, US and the EU because of the maturity of their regulation or relevance of the greenwashing cases that they are already encountering. In relation to the UK, we have highlighted the UK Green Claims Code, developed by the Competition and Markets Authority (CMA) to regulate environmental claims, emphasizing clarity, and evidence-backed assertions. Additionally, we have directed our attention towards the US Federal Trade Commission's (FTC) Green Guides, which offers guidelines for environmental claims made in advertisements, though they are not legally binding.

Finally, we place special emphasis on the EU's regional regulatory framework. We explore the EU's ambitious efforts to prioritize sustainability, including the proposed directive such as the Green Claims Directive. This directive aims to mandate evidence-based environmental claims, enhance consumer trust, and drive sustainable practices. Additionally, considering the yet to be enforced EU regulatory initiatives, we have particularly scrutinized how Spain and Norway navigate greenwashing cases within their respective legal frameworks.

Furthermore, we have delved into the eco-labeling standards, which play a vital role in guiding consumer choices and promoting sustainable practices. It is worth acknowledging that there is a proliferation of eco labels within the sustainability landscape, which indicates the diverse approaches that exist to certify environmentally friendly products.

We then explore the business perspective surrounding greenwashing, shedding light on the motivations behind companies' engagement in deceptive environmental practices, the associated risks, and real-world case studies illustrating the consequences. One primary driver of greenwashing is the financial incentives, which derive from the increasing investor interest in environmentally friendly initiatives. The rise of ESG investments, has led companies with strong ESG credentials to obtain higher valuations and lower costs of capital, incentivizing them to present themselves as more sustainable than they actually are. This has been evident when observing the valuation rise of eco-friendly companies like Tesla Inc., illustrating the attractiveness of aligning with environmental principles in today's market.

The risks associated with greenwashing practices are multifaceted, ranging from damage to corporate reputation and stakeholder trust to operational inefficiencies and regulatory scrutiny. Greenwashing can erode consumer trust, leading to decreased satisfaction scores, which has been evidenced by surveys we have reflected upon which indicate consumers reluctance to buy from brands engaging in deceptive sustainability claims. Moreover, companies involved in greenwashing may face legal liabilities and regulatory penalties, as well as the possibility of greenwashing posing risks to a company's supply chain integrity and operational efficiency.

PATHS TO IMPROVEMENTS

In light of these findings, we have opted to provide a series of recommendations.

First and foremost, transparency and accountability must be prioritized in corporate sustainability efforts. Companies must ensure clear and verifiable reporting of environmental commitments, supported by tangible actions and measurable outcomes. By embracing transparency, businesses foster trust among stakeholders and demonstrate genuine commitment to sustainability. Additionally, organizations should integrate sustainability principles into their core business strategies by prioritizing genuine sustainability practices throughout their operations, rather than focusing solely on superficial initiatives for marketing purposes.

Moreover, regulatory compliance is essential for companies to mitigate the risk of getting entangled in greenwashing scandals. The complexity of these regulations has contributed to a surge in climate litigation cases, as highlighted in the report *"Global Climate Change Litigation Report: 2023 Status Review"* by the UN. The United States leads the list with 1,522 cases reported until December 2022, followed by Australia (127), the United Kingdom (79), and other nations such as Germany (38), Canada (34), Brazil (30), New Zealand (26), France (22), Mexico (18), Spain (17), and Indonesia (12). This surge underscores the global significance of addressing environmental issues within legal frameworks (Labarca, 2024)[27].

Companies must remain up to date with the evolving regulations and industry standards regarding the topic to ensure accurate reporting and adherence to guidelines. By complying with regulatory requirements, businesses can avoid legal liabilities and uphold the integrity of their sustainability claims.

The findings of the KPMG survey have been instrumental to identify the diverse approaches taken by different jurisdiction when addressing the growing challenge of greenwashing. Each jurisdictions distinct approach has led to confusion and complications for companies that operate globally.

To enhance the effectiveness of the worldwide regulatory framework concerning greenwashing practices, it is essential to advocate for harmonized collaboration and coordination among national government regulators. This collaborative approach between regulators allows the sharing of best practices, the exchange of information, and the alignment of standards, creating a more cohesive and consistent regulatory environment. Such joint effort would not only facilitate regulatory compliance for companies operating across borders but would also strengthen the overall integrity of the legal framework, making it more robust and capable of effectively addressing the challenges posed by greenwashing. Additionally, such coordination facilitates the exchange of expertise and resources among regulators, enabling them to stay ahead of emerging trends and developments in the field of environmental governance. Ultimately, a synchronized regulatory approach would contribute to building trust and confidence among stakeholders, fostering greater transparency and accountability in the ongoing battle against greenwashing.

Eco-labelling plays a significant role when addressing greenwashing practices and promoting genuine sustainability efforts given that eco-labels provide clear and transparent information about the environmental attributes of products, allowing

[27] Labarca, M.J. (2024, May 19). Los bufetes alertan de un alud de litigios por el vicio de las empresas por el 'greenwashing'. *El Confidencial*. Los bufetes alertan de un alud de litigios por el vicio de las empresas por el 'greenwashing' (elconfidencial.com)

consumers to make informed purchasing decisions and distinguishing between genuine sustainability efforts and deceptive marketing tactics.

In light of the proliferation of eco-labels, which challenges the transparency of the sustainability landscape, adopting a standardized approach to eco-labeling is recommended. The abundance of eco-labels can lead to confusion among consumers and can weaken the credibility of sustainability claims. By implementing a standardized criteria and certification processes for eco-labeling, consistency and transparency can be ensured across different products and industries. Collaboration among stakeholders, including governments, organizations, and environmental groups, would be essential for this.

Following our thorough examination of prominent regulatory approaches to combat greenwashing, it has become evident that some, such as the US Green Guides, lack legal binding, thereby failing to impose sanctions for non-compliance. This observation prompts a critical inquiry regarding the effectiveness of non-binding guidelines that rely on voluntary compliance. Unlike regulations, which carry legal repercussions for violations, guidelines merely provide recommendations to companies and marketers to avoid making misleading environmental claims and evade the threat of litigation.

Greenwashing poses several risks for companies such as the mentioned reputational risks, supply chain and operational efficiency risks, and litigation risks. However, it is fair to also highlight that there are relevant costs that stem from compliance with the increasing regulatory ESG framework, including sunk costs. These costs can wield significant influence on business outcomes.

Expanding beyond the immediate costs and risks associated with greenwashing, it is imperative to consider its broader economic implications. The proliferation of greenwashing not only undermines consumer trust and distorts market competition but also threatens the financial and business evolution of certain sectors that may be more exposed. While recognizing the potential economic consequences of greenwashing, it is important to acknowledge the difficulties that we have had to face when quantifying its precise impact on the economy and business sector due to a lack of comprehensive data. The lack of this data should not diminish the urgency of addressing greenwashing; rather, it emphasizes the need of continuing to research and remain vigilant about advancements in the field.

For a company to engage in greenwashing, executives must make strategic decisions that lead to such practices. This tendency arises from the significant investment that is necessary to transition all company's operations to sustainability. Stakeholders and board members may hesitate to invest in genuine sustainability efforts due to concerns about market backlash and associated financial burden. Their concern lies in the worry that prioritizing long-term sustainability goals could jeopardize short-term competitiveness and financial performance.

The reporting requirements mandated by the CSRD, and the Corporate Sustainability Due Diligence Directive (CSDDD) pose significant challenges for Small and Medium-sized Enterprises (SMEs). It is evident that SMEs face difficulties when dealing with environmental, social, and corporate governance issues. It is worth noting that the European Financial Reporting Advisory Group (EFRAG) has opened consultations until May on its proposal for a set of sustainability indicators for SMEs to agree on what information is important for SMEs to disclose and what is feasible for them. Despite the challenge, SMEs can use the current push of sustainability to grow (Instituto de Contabilidad y Auditoría de Cuentas, 2024)[28].

Lastly, we must reframe the debate of including the intentionality factor within the greenwashing definition given the absence of enforced greenwashing regulations and the vagueness of proposed directives, the standards for classifying something as green or sustainable can be subject to broad interpretation. Without clear guidelines, companies may believe they are acting within acceptable boundaries when making sustainability claims. Consequently, the inclusion of intentionality helps to provide clarity and establish accountability in distinguishing genuine efforts from deceptive practices.

Furthermore, considering intentionality allows for a more nuanced understanding of companies' actions in sustainability marketing. While some may genuinely strive to adopt environmentally friendly practices, others may deliberately exploit consumer preferences for sustainability without genuine commitment. By including intentionality in the concept’s definition, we can differentiate between inadvertent errors and deliberate

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[28]Instituto de Contabilidad y Auditoría de Cuentas. (2024). EFRAG Set 1 Q&A: Implementación de las NEIS. *Gobierno de España*. https://www.icac.gob.es/sostenibilidad/normativa

attempts to mislead consumers, enabling more targeted responses and enforcement measures.

However, incorporating intentionality into the greenwashing definition presents challenges, particularly in assessing and proving intent. Determining whether a company knowingly engaged in deceptive practices or acted with genuine ignorance requires thorough investigation and analysis. Despite these challenges, acknowledging intentionality is essential for promoting transparency, fairness, and effectiveness in combating deceptive environmental marketing practices.

A comprehensive approach to combating greenwashing entails a balanced integration of government oversight, industry self-regulation, and consumer education. Governments hold a crucial responsibility in formulating clear and robust guidelines for green advertising, while also encouraging companies to voluntarily adhere to ethical standards. Concurrently, businesses must prioritize transparency and actively engage with stakeholders to ensure that consumers have access to accurate information, enabling them to make informed decisions that support truly sustainable practices. By fostering collaboration among all stakeholders, including governments, industries, and consumers, we can collectively work towards a sustainable future grounded in integrity, accountability, and empowered consumer choice.

As we contemplate the far-reaching implications of our research, it becomes evident that the fight against greenwashing is far from over. Beyond its immediate ramifications for businesses, greenwashing exerts profound societal and environmental repercussions, underscoring the imperative for concerted collective action. By fostering collaboration among stakeholders, promoting ethical conduct, and advancing robust regulatory frameworks, we can collectively endeavor towards fostering a more transparent, accountable, and sustainable corporate landscape that serves the interests of both present and future generations.

CHAPTER 6: DECLARACION DE USO DE HERRAMIENTAS DE INTELIGENCIA ARTIFICIAL GENERATIVA

ADVERTENCIA: Desde la Universidad consideramos que ChatGPT u otras herramientas similares son herramientas muy útiles en la vida académica, aunque su uso queda siempre bajo la responsabilidad del alumno, puesto que las respuestas que proporciona pueden no ser veraces. En este sentido, NO está permitido su uso en la elaboración del Trabajo fin de Grado para generar código porque estas herramientas no son fiables en esa tarea. Aunque el código funcione, no hay garantías de que metodológicamente sea correcto, y es altamente probable que no lo sea.

Por la presente, yo, Matilde Whittaker Mancha, estudiante de Administración y Dirección de Empresas y Relaciones Internacionales (E6) de la Universidad Pontificia Comillas al presentar mi Trabajo Fin de Grado titulado "GREENWASHING IN THE SUSTAINABILITY ERA: COMPREHENSIVE STUDY ON CORPORATE RISKS AND INTERNATIONAL REGULATION", declaro que he utilizado la herramienta de Inteligencia Artificial Generativa ChatGPT u otras similares de IAG de código sólo en el contexto de las actividades descritas a continuación:

1. **Brainstorming de ideas de investigación**: Utilizado para idear y esbozar posibles áreas de investigación.
2. **Crítico:** Para encontrar contra-argumentos a una tesis específica que pretendo defender.
3. **Corrector de estilo literario y de lenguaje:** Para mejorar la calidad lingüística y estilística del texto.
4. **Sintetizador y divulgador de libros complicados**: Para resumir y comprender literatura compleja.
5. **Revisor:** Para recibir sugerencias sobre cómo mejorar y perfeccionar el trabajo con diferentes niveles de exigencia.
6. **Traductor:** Para traducir textos de un lenguaje a otro.

Afirmo que toda la información y contenido presentados en este trabajo son producto de mi investigación y esfuerzo individual, excepto donde se ha indicado lo contrario y se han dado los créditos correspondientes (he incluido las referencias adecuadas en el TFG y he explicitado para que se ha usado ChatGPT u otras herramientas similares). Soy consciente de las implicaciones académicas y éticas de presentar un trabajo no original y acepto las consecuencias de cualquier violación a esta declaración.

Fecha: 20 de marzo de 2024

Firma: ____________________________

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