

17 May 2023

To: Environment and Communications References Committee
From: Professor Melissa Nursey-Bray, University of Adelaide
Re: Greenwashing Inquiry
At: ec.sen@aph.gov.au

To whom it may concern

Thank you for the invitation to make a submission to the Committee in relation to the Greenwashing Inquiry.

This is a very timely inquiry as the need for sustainable business practice is becoming more important. I wanted to make a few points in relation to the TOR for consideration.

(a) the environmental and sustainability claims made by companies in industries including energy, vehicles, household products and appliances, food and drink packaging, cosmetics, clothing and footwear.

In relation to erroneous claims made by companies about their sustainability profile, one of the ways in which this occurs is via misleading use of ‘natural’ and ‘sustainable’ imagery, as well as misleading text which implies a sustainability platform or practice has been implemented. Overall, better communications that provide plausible and transparent information about the product needs to be part of the promotion of a product and invested in properly.

Related to this issue is the fact that when considering any policy or regulation of greenwashing, the supply chains of many need to be included - many companies may in fact believe they are ‘sustainable’ but have not done the research to discover that in another place where materials they source or build items along the supply chain, are in fact environmentally destructive or socially unjust thus exposing themselves to critique. Effective policy needs to ensure checks and balances are embedded into practice so that it addresses all stages of production – from cradle to grave.

(b) the impact of misleading environmental and sustainability claims on consumers;

Studies show that consumers are willing to pay more for a more sustainable product – the Global Sustainability Study 2021, which consulted 10,000 people found that 85 percent of people indicate that they have shifted their purchase behavior towards being more sustainable in the past five years. Globally, sustainability is rated as an important purchase criterion for 60 percent of consumers, with 42% of millennials willing to pay more, and 30 % of millennials already choosing more sustainable alternatives.

In this context of emerging demand for sustainable products, greenwashing not only causes significant damage to consumer trust leading to skepticism, but it means it damages and

compromises the reputation and capacity of those companies who seek in good faith to implement measures to build sustainability.

(c) domestic and international examples of regulating companies' environmental and sustainability claims;

There are examples however of other ways in which company performance is being judged and regulated. For example, in France, the government has gone so far as to promulgate a law that prevents businesses from false advertising and enables prosecution if they are found to be making misleading statement of advertising sustainability practice when it is not occurring. From 2023, France brought in legislation against greenwashing – specifically clamping down on terminology like ‘carbon neutral’. Under the Climate and Resilience Law, companies are prohibited from claiming in an ad that their products or services are carbon neutral unless they meet a range of criteria and companies. Failure to comply can cost up to €100,000 for repeat offenders

(d) advertising standards in relation to environmental and sustainability claims;

As noted above, the way in which sustainability agendas are communicated often results in building consumer confidence as the imagery, packaging and terms used build a sense of confidence and sustainability. However, much of this imagery is misleading – but may often be within the law. For example, the term ‘natural’ can be used on anything, and so will imply ‘greenness’ when it is not there. In Australia a recent investigation via an internet sweep of 247 product websites by the ACCC showed that 57% of them had made sustainability claims that could not be verified.

This false advertising needs to stop, and a range of policies and tools established to ensure that companies comply with and advertise their credibility only when it is actually true and accountable. Assisting companies to build and sustain ESG standards is one pathway to do this as well, encouraging higher environmentally literate and better regulated industries.

(e) legislative options to protect consumers from green washing in Australia;

ASIC has provides a useful resource to help companies avoid greenwashing practice – the link is here - [How to avoid greenwashing when offering or promoting sustainability-related products | ASIC](#). Upon release of this information, ASIC has subsequently implemented 35 interventions which they state are “aimed squarely at promoting fair and transparent markets so that retail investors and financial consumers are well informed and not misled on the ‘green credentials’ of investments and listed companies. We have ongoing surveillances and several investigations underway and anticipate further regulatory action”. These actions have resulted in 3 corrective disclosure outcomes, 11 infringement notices issued, and one case, the commencement of civil penalty proceedings.

This initiative offers an opportunity for businesses to ensure their advertising and promotions are accurate and evidence based. Other countries are making similar efforts such as in the UK where the Competition and Markets Authority (CMA) has a Green Claims Code that gives

businesses guidance relating to their obligations under consumer protection law when it comes to making environmental claims about their goods and services and making sure such claims are accurate, substantiated, clear and unambiguous. Further work in this area is warranted, including establishment of an Act that provides an statutory framework across Australia to ensure compliance to sustainability practices.

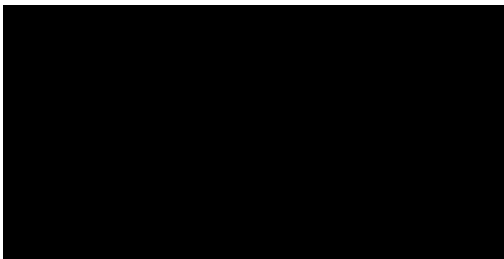
Recommendations

In sum, greenwashing is a real issue that damages consumer trust, affects the credibility of companies that are doing the right thing, and in real terms embeds product cycles and supply chains that continue to have negative impacts on the environment and vulnerable communities. Effective management of this issue requires a combination of formal and informal mechanisms to encourage companies that want to become more sustainable to do so, and for those who do not comply. to be penalized.

Suggestions actions could include:

- Program of incentives /subsidies to encourage and motivate businesses to consciously create more sustainable products and practice.
- Creation of laws to prevent false advertising and greenwashing but also to guide effective and sustainable business practice and appropriate messaging.
- Creation of tailored policies (per industry/sector) on how to run sustainable businesses
- Creation of training packages for companies on how to run businesses in the most sustainable manner.
- Requirement for annual formal reporting and auditing of companies
- Explicit recognition of need to avoid greenwashing written into ISO EMS Systems and in company ESD/ESG/CSR Frameworks.
- Development of communication packages for businesses about how to advertise, message and disseminate product or service.

Thank you for the opportunity to comment



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