

Fifteenth Meeting of the UNCTAD Research Partnership Platform

Room XIX, Palais des Nations, Geneva

3 July 2024

Sustainable Consumption and the Challenge of Greenwashing

Presentation

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Introduction

- Expansion of global population and consumption imposes an increasing burden on the environment
- Relatively small changes in consumer behaviour in the direction of ‘green actions’ could reduce the EU carbon footprint by approximately 25% (Moran, Wood & Hertwich)
- How can consumer law promote sustainable consumption and mitigate climate change?



1. Consumer law and sustainable consumption

- OECD report shows that consumers have a significant impact on environmental degradation and climate change
- UN Guidelines for Consumer Protection mention sustainable consumption as an important objective for governments
- UN 2022 recognition of the human right to a clean, healthy and sustainable environment



2. Regulatory Innovation

- New developments to promote sustainable consumer law regimes
- EU proposed a Green Claims Directive: aims to address greenwashing and help consumers make sustainable decisions when buying a product or using a service.
- UK developed a Green Claims Code to ensure that environmental claims on products or services do not mislead customers

3. Greenwashing & Implications

- Consumers face an increase of environmental claims from companies, which are often unclear or not well-substantiated
- European Commission's 2020 impact assessment:
 - 53.3% of the examined marketing statements were vague, misleading or unfounded, both in adverts and on the product's labelling.
 - 40% of the statements were “unsubstantiated”
- Undermines trust in legitimate environmental products & hampers sustainable consumption



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Greenwashing Examples

- Adverts by Ryanair banned by UK Advertising Standards Authority (ASA) for making 'misleading' CO2 emissions claims
- Text advert claimed "Ryanair has the lowest carbon emissions of any major airline".
- Ryanair broke rules on environmental claims and misleading consumers in its press, TV, and radio ads from September 2019.
- The ASA has ruled the "ads... must not appear again in their current forms" as the claims could not be substantiated

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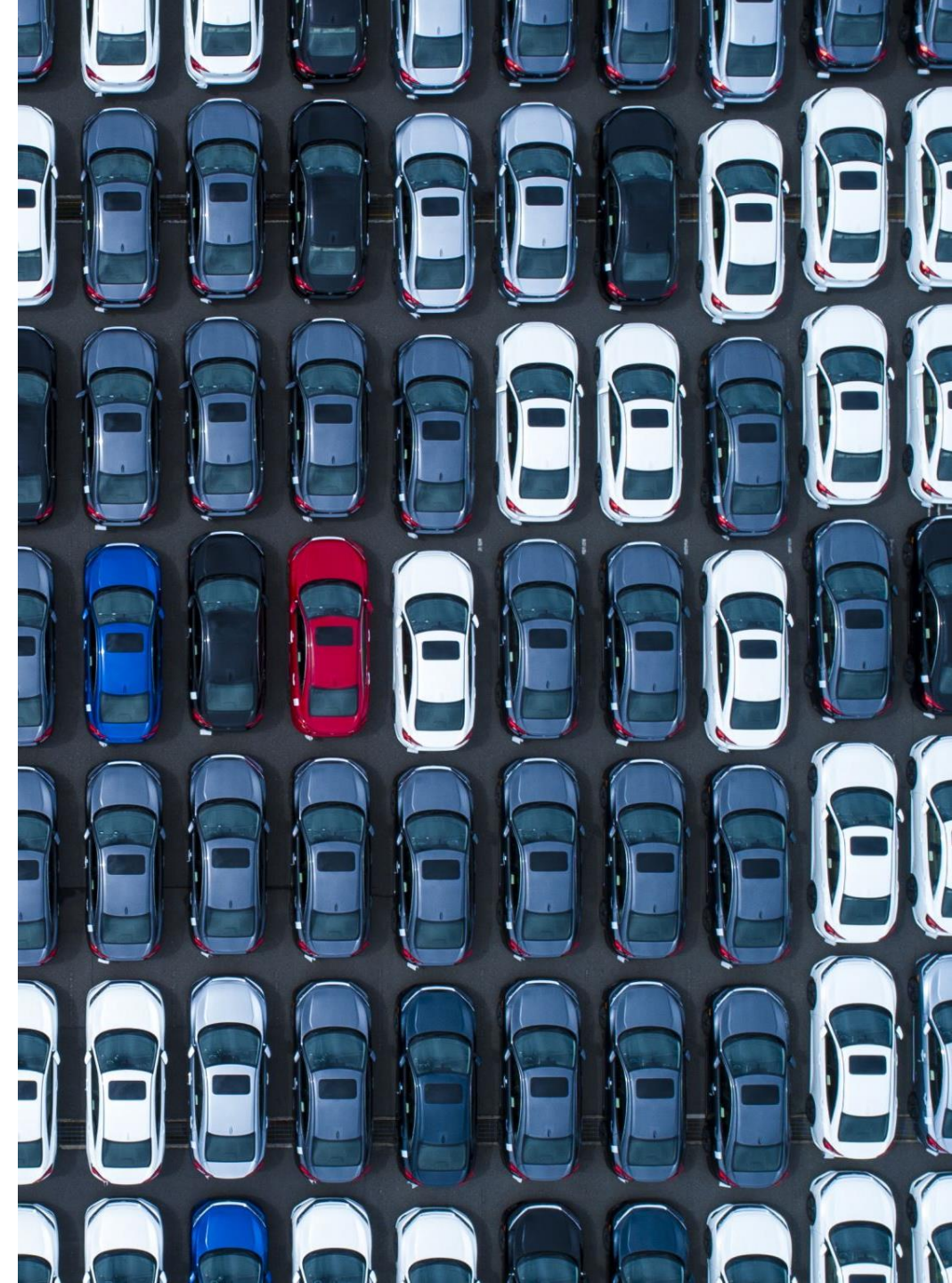
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HSBC Example

- HSBC ranks 13 for the leading banks financing fossil fuels in the UK
- HSBC were praising their climate-friendly initiatives in their advertisements but failed to mention their considerable contribution to the climate crisis (estimated at \$ 8.7 billion into new oil and gas in 2021)
- 45 individuals complained to the Advertising UK Standards Authority that HSBC's advertisements were misleading
- Ads were banned

Greenwashing Litigation

- *Dieseldgate* Scandal - classic example of greenwashing
- Volkswagen admitted to cheating emissions tests (software could detect when it was undergoing emissions tests and altered the performance to reduce the emissions level)
- Company was marketing low-emissions and eco-friendly features of its vehicles (although engines were emitting up to 40 times the allowed limit for nitrogen oxide pollutants)
- National collective redress cases (e.g., Italy & UK)
- EU adopted Consumer Collective Redress Directive



4. EU Proposed Green Claims Directive

- Aim: to combat greenwashing and improve transparency
- Firms would have to substantiate their climate-friendly claims with evidence (assessment that meets the relevant minimum criteria of, inter alia, reliability, verifiability and comparability, which are to prevent claims from being misleading)
- An independent claims verifier would be established to examine companies' green claims and ensure that the claims properly reflect the full life cycle of products
- Firms would be required to provide further consumer information about the claims and the related evidence

Compliance & Enforcement



MS procedures for verifying environmental claims & compliance of environmental labelling schemes



Competent authorities will be given investigative and remedial powers (e.g., fines)



Enforcement of injunctive and collective redress measures by way of representative action could be taken



Conclusion and Recommendations

- Sustainable consumer regulation and strategic litigation is emerging
- Promoting transparency in relation to environmental claims
- Strengthening consumer law by establishing clearer guidelines and standards for environmental claims
- Enhancing consumer awareness and education
- Facilitating consumer protection enforcement and fostering corporate accountability to address greenwashing

Thank You

