The Third Pillar of Bluewashing: Environment

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Abstract

An area of bluewashing numerous individuals have heard of is greenwashing in response to the eco-surge advertised through the media for multiple years. This is when a firm deceives its audience by providing misleading information to seem more ecologically ethical. Many interventions have been in place, and the United Kingdom is taking further steps and plans to reduce the rate of climate change through corporations. However, many companies still carry out unethically misleading information that prevents and holds back ethical plans. This paper delves deeper into the current issues around ecological bluewashing and other trends and plans to tackle this widespread issue.

Keywords: UN, labour, principles, ESG, greenwashing, regulations, corporations.

Introduction

When a corporation deceives its audience by promoting false information about themselves while engaging in troubling blue-washing related activities such as violating workers human rights, causing environmental harm, and corruption, among other things, it is known as blue-washing.

The term bluewashing originated from the United Nations (UN) Global Compact Partnership. This strategic effort sustains global businesses dedicated to ethical business operations in human rights, labour, the environment, and corruption. In addition, this UN-led initiative supports actions that help achieve long-term ethical and feasible development goals to make the world a better place. With ten principles in line, the ultimate mission of the UN Global Compact is to develop universal principles on human rights, labour, environment and anti-corruption with the active engagement of businesses, in conjunction with civil society and representatives of organised labour.

The United Nations collaborates with corporations that pledge to abide by the ten human rights and environmental principles of the UNGC to "mobilise a global movement of sustainable companies and stakeholders to create the world we want.", but that is not precisely the case.

The UN Global Compact actively engages with developed and developing countries, and in just 21 years, the UN Global Compact Network has gained more than 12,000 signatories from over 160 countries. To become a member of this network, businesses and non-commercial businesses pledge to commit to the advancing of the ten principles as well as achieving the Sustainable Development Goals (SDG) - a universal call to end poverty, protect the planet, and gain world peace (UNGC, n.d.).

12,000 is a substantial number - and all these signatories are from a diverse range of corporations ranging from international businesses to non-business profiles such as labour organisations. On paper and in writing, these corporations pledge to join the UNGC to shape a sustainable future. However, the critical question here is, do all 12,000 of these UNGC members genuinely contribute to their mission? The answer would be a solid No - not all 12,000 of them do.

Many of these corporations have appalling track records, so how did they succeed in joining the UNGC? Blue Washing. As mentioned above, Blue Washing is a practice exercised by corporations that are members of the UNGC to deceive society by portraying themselves as compliant with the 10 UNGC principles. These corporations associate themselves with the UNGC only to make themselves commendable for opposing child labour, slavery, corruption, and human rights violations. When a corporation joins the UNGC, they are encouraged and recommended to abide by the ten principles - but the loophole here is that these 10 principles are non-binding; Meaning that companies have the freedom to choose whether or not they want to comply with the rules because it is an entirely voluntary initiative - not legally binding - therefore they are not legally required to do so.

In all honesty, the inadequacy in the law of UNGC has become an opportunity for Blue Washing to take place. To understand the correlation between blue-washing and the environment, we must look into the environmental aspect of the United Nations Global Compact. Principle 7, 8, and 9 are the environmental-related principles that must be respected when corporations agree to become partners of the UN Global Compact.

- Principle 7: Adopt a precautionary approach to environmental challenges.
- Principle 8: Conduct environmentally responsible activities.
- Principle 9: Encourage the development and diffusion of environmentally friendly technologies.

It is worth keeping in mind that companies are morally obligated to comply with all three principles. Still, they are not legally bound by it, allowing them to practice 'bluewashing' easily.

COP26

The 2021 United Nations Climate Change Conference, also known as COP26, is the 26th United Nations Climate Change Conference. The COP26 has four main objectives:

1. Secure global net-zero by mid-century and keep 1.5 degrees within reach.
2. Adapt to protect communities and natural habitats.
3. Mobilise finance.
4. Work together to deliver.

COP26 concerns mainly the environment, but companies abuse this initiative by practising blue washing. As a result, there has been an increase in the numbers of companies that take the lead in ESG (Environmental, Social, and Corporate Governance). In this case, environmental concerns over carbon reduction targets, biodiversity, reducing waste and pollution and investing in new technology. Social in ESG aims to ensure diversity in the workplace. At the same time, discover and take steps to combat social issues, abolish modern slavery, and protect human rights such as pride for the LGBTQ+ community and black lives matter for the black community. Lastly, governance ensures businesses are run or governed transparently for the people investing in the industry. Sustainability falls under the governance category as it concerns the impacts companies have, as businesses should look beyond profit and think about people and the planet.

For a business to thrive, it has to consider different aspects of the world, such as the environment, which is precisely what the COP26 stands for. Furthermore, according to the climate action tracker, the world is currently reaching 2.4 Celsius warming, which is high above the 1.5 Celsius required to avoid worsening climate change. The last number was agreed many years ago under the Paris agreement. Once there is a worsening of climate change, and the COP26 is not adequately implemented, the economy will be met with a wide variety of impacts such as New and altered legislations, Pressure from investors, Climate change litigation, Damage to business image, nature and biodiversity impacts and Change in access to finance. This leads to many companies announcing their agreement with COP26, but this does not suggest that they are fully committed. In conclusion, companies practice blue-washing because it allows them to fabricate their commitment towards COP26.

The Greener Litigation Pledge

The Greener Litigation Pledge was launched to assist companies in becoming more eco-friendly by applying a list of targets to meet. This initiative features the marks a law firm can uphold by minimising travel and paper-formed reviews to those specialising in dispute resolution. Therefore, cutting down on firms yearly carbon footprint and ensuring that we restrict global warming, adhering towards the 2015 Paris Agreement.

An array of law firms within the United Kingdom have internally applied this Pledge into their business structure. However, this Pledge does not state how they will be regulating signatories through this initiative. However, the excellent and ethical intention is still evident. The hopes for this initiative to regulate all firms involved would be the most beneficial to ensure all are applying themselves well to this environmental initiative.

A critical difference between the United Nations Global Compact and The Greener Litigation Pledge is that the Pledge includes several targets for corporations to achieve. These targets are reachable at any stage and only require firms to apply this initiative within the workplace in a well-mannered way.

Greenwashing in the Modern Day

There is increased pressure on corporations regarding environmental issues and a collective consciousness regarding ecological change in the modern world. As a result, there has been evidence of corporations making a change to be more environmentally friendly. For example, companies such as Walmart provide customers with a 'sustainability index' on their products, forcing suppliers to be more ecologically conscious. (Mitchell & Ramey, 2011). This rise of green consumerism has had an impact on the Corporate Social Responsibility initiatives of organisations. This has eventually, over the years, emphasised 'green' to establish an environmentally friendly image (Gelici, 2019).

However, some companies have seen this opportunity to 'going green' as an opportunity to use tactics to increase their profits and increase market shares (Mitchell & Ramey, 2011). Greenwashing has been defined as "the act of misleading consumers regarding the environmental practices of organisations (firm-level) or the environmental benefits of a product or service (product-level greenwashing)" (Delmas & Burbano, 2011; cited by Gelici, 2019).

Several elements contribute to greenwashing, the first one being confusion. This element flows naturally from the complex nature of the corporate form, reliance on decentralised decision making. Fronting is defined as corporations casting doubt on the severity of the issue and rebranding to avoid past association. This is accomplished by subordinates scapegoating or reverse whilst blowing. Posturing is another element where corporations will employ 'front groups' or coalitions of firms to oppose solutions or legislation. An example of this would be corporations using images that assume ethical leadership in the field. Finally, corporations achieve confusion by carefully documenting control and limiting what information is available for regulators and prosecutors (Laufer, 2003).

Regulation of greenwashing in the US is minimal, and the enforcement of such regulation is highly uncertain from the perspective of firms (Delmas & Burbano, 2011). In comparison, in the UK, these regulations are different. The UK is going through a 'greening' period in society, whereas the US has fallen short of its rules. These differences have been speculated to be caused by fundamental political differences (Baum, 2012). In addition, research has found that firms have different environmental policies due to the different market, business risks, organisational and industry factors affecting each firm. Reinhardt (1999, cited by Rramus & Montiel, 2005) stated in their research that firms behave differently due to their perceptions of potential economic impacts. In addition, global firms have been found to have different levels of environmental performance dependent on internal organisational processes and institutional pressures for conformity (Shafrman, Shaft & Tihanyi, 2004; cited by Ramus et al., 2005).

Regulations in Place

A prominent American environmentalist Jay Westerveld concocted the term "Greenwashing" in 1986 through an essay on claims that the hotel industry's misleading environmental strategy to promote the reusing of towels was a disguise for a cost-saving act. A decade later, this is still the case as too many consumers are being sold products or services on the back of false advertising and deceptive marketing. Companies are portraying themselves as environmentally friendly or even fulfilling their corporate social responsibility, but in essence, it's far from that. Instead, these companies put up a convincing act that they care about the same things as we do. This open deception is greenwashing (Orange, 2010).

Brands are spending a fortune to convince consumers that their products are eco-friendly and sustainable or even their practices are green. These practices or measures categorically influence corporate reputation, buying power and consumer loyalty (Aguinis & Glavas, 2012). Companies can be caught greenwashing in various ways as subtle as the plastic bottle water companies such as Evian and Deer Park, whose labels have nature written on them. This reference to nature on the label is by far anything to do with it, as single-use plastic bottles contribute largely to plastic waste worldwide. Famous brands such as Starbucks, IKEA, and Coca Cola are all guilty of greenwashing plastic waste (Deena, n.d.).

Along with some other countries, the UK has started taking greenwashing seriously since there are no specific laws against it. However, as greenwashing falls into the scope of false advertising, it can be illegal. Post-Brexit, the UK's Competition and Markets Authority (CMA) and its European equivalent, such as the Dutch Authority for Consumer Markets, are probing into fallacious environmental claims in conjunction with the International Consumer Protection and Enforcement

Network are working to create a standardised framework of regulations along with carrying out investigations.

The restrictions in the Consumer Protection from Unfair Trading Regulations 2008 deal with false environmental claims that go against Regulation 5, which prescribes misleading and inaccurate commercial practices. Companies that try to complicate or conceal material information violate Regulation 6, thus making it an offence under either of the regulations to trick the consumer into entering a contract where they might not have intended to have otherwise had there not been the product's claims or services being eco-friendly.

These regulations are further enforced in the European Union under Articles 6 and 7 of the Unfair Commercial Practices Directives 2005; similarly, in the United States, it falls under the S5 of the Federal Trade Commission Act 1914, and in Australia, companies are policed under the Section 18 of the Competition and Consumer Act 2010. In terms of case law, Ryanair was denounced in the UK for proclaiming the title of being Europe's "Low emission airline" based on historic and insufficient data (Madeleine, n.d.). Volkswagen also had a claim brought against them regarding false statements concerning the "diesel gate" scandal. It was alleged that the car manufacturer had programmed diesel vehicles to lower their nitrogen oxide output to cheat emissions tests artificially. This was a breach of air pollution laws and misrepresentations to the consumers that led them to believe they were getting a cleaner car.

Another legislation regulating environmental claims and advises avoiding greenwashing is the codes provided by the Advertising Standards and Authority (ASA)- Environmental claims code and written by the Committee of Advertising Practice (CAP). Code 11.2 is essential because it reiterates the significance of making sure that all terminology is clear to the consumer and not using jargon in communications. A pivotal point of the ASA guidance is that environmental claims on a marketed product must be made on the "full life cycle of the advertised product" compared to one part of the supply chain, which might be more sustainable than the rest. Thus, setting a high degree of onus on the company to provide a more considerable percentage of support to the substantial claims on the efficiency of the product.

The Department For Environment, Food & Rural Affairs (Defra), although has no enforcement role on environmental claims except for the EU Ecolabel however its guidance on making an environmental claim for product, service or organisation is valuable as they encourage businesses only to use symbols, labels or certification that directly support the claim they are making about a specific product.

The UK government has also tightened up rules to stop greenwashing of electricity tariffs. It launched a review to explore to what extent there is greenwashing present in the retail energy sector, to see if the current system is suitably transparent and if the rules around what can be called green remain fit for purpose. In addition, in its Energy White paper, the UK government promised to call for evidence designing a framework for transparency of carbon content in energy products.

The Business Protection from Misleading Marketing Regulations 2008 (BPRs) rules regulate and prohibit misleading business to business advertising and impose further restrictions on how companies compare their products to competitor products. Thus, providing some regulation to safeguard businesses from greenwashing is an issue for consumers and affects businesses and traders alike.

Having looked at various rules and regulations, it can be said the UK government has much to do in terms of tackling greenwashing, even as the UK is pushing for the G-7 to adopt mandatory climate reporting. In June 2021, the UK's Treasury Department announced a Green Technical Advisory Group (GTAG) to advise and assist the UK Government in evolving and enacting a Green Taxonomy targeting greenwashing. The Green Taxonomy provides better data on the environmental impact of firms, supporting investors, businesses and consumers. This is in line with the UK Government's commitment to reach net-zero carbon emissions by 2050 as green issues remain a big focus in all industries and sectors in the UK and around the world.

Environmental Targets

Corporate environmental responsibility trends show that companies do not pay much attention to shareholders' wishes to implement environmental policies. Many shareholders showcase their ideas to internal employees within a company they have invested in. They see the dominance of ecological factors and positively improve a corporation's finances and social standing. However, many directors are too concerned with other issues to consider their external corporate governance opinions. Social responsibility is a core value that all corporations should invest an abundance of time into to surpass competitors tackling these public sector concerns.

The BP oil spill disaster is one prime reflection of corporate social responsibility and corporate profits. The "Beyond Petroleum "campaign by BP enabled their position as a leading company before this disaster occurred. Then, the issue of greenwashing was raised concerning the campaign and the oil disaster as the company was misleading many viewers by stating they were more environmentally sustainable (Kim & Statman, 2012). Therefore, the tragedy that greenwashing can bring to companies can devastate a corporation's reputation once checked out. Further showcasing that greenwashing is now a significant concern for many large companies due to a thin line between greenwashing, a sub-sector of bluewashing, and positive advertisement.

Many corporations seem to struggle between "impact firms" and "financial first", which can cause a lot of frustration with directors (Freireich & Fulton, 2009). In addition, many researchers have pointed out that many corporations will trade-off corporate environmental responsibilities to focus predominantly on financial performance (Kim & Statman, 2012). However, due to social pressures, the Environmental, Social and Governance (ESG) movement has been rife in the financial and business sector. When a firm applies all three ESG elements within its business model, there is drastically positive economic performance across the board (Taemuki et al., 2016).

One way in which firms are applying ESG is by incorporation of green bonds that have prevailed in the industry with companies attempting to profit and fund their greener projects. This form of the unique bond was established after the Paris Agreement that numerous countries signed to show that they will apply the target of limiting global temperatures in the fight against corporate climate change (Gianfrate & Peri, 2019). The green bond is an environmental trend across the western economy, but it is now appropriately defined or regulated strictly. Therefore, there are many concerns around this form of bond and if corporations can potentially abuse the system by carrying out bluewashing tactics and deceiving the public with misleading projects.

What is the Issue?

The Global Compact is a list of ten standards set by the United Nations (n.d. a) that companies may choose to comply with and to operate ethically, in regards to human and workers' rights, striving to prevent corruption "in all forms" and acting responsibly in regards to the environment, among other things. The initiative is, however, in effect, voluntary, because by the United Nations' admission, there is no enforcement mechanism to ensure that signatories comply;

"Our initiative is not designed, nor does it have the mandate or resources, to monitor or measure participants' performance." (The United Nations, n.d. b)

This issue - the lack of an enforcement mechanism - is an issue that is consistent in any United Nations-led or any general worldwide initiative. In the political and legal sphere, the reason minimal action has generally been taken against any practice which the United Nations actively tries to prevent, such as known human rights abuses among government regimes, is due to the principle of non-intervention in a nation state's affairs which dates back to 1648 at the foundation of the Treaty of Westphalia, which scholars generally regard as the foundation of international relations as it is known today (McGrew, 2006). As a result, the United Nations has always been cautious in its wording in this regard; in any United Nations Resolution, any action they desire is "welcome[d]" or "encourage[d]" or and any they wish to stop is "strongly condemn[ed]" rather than explicitly enforced or prohibited (UN Security Council, 2011, p.11).

In the same vein, even though the responsibility of ethical production falls to private companies and not governments, the same issue applies to the inability to enforce the ethical production of clothing; there is no enforcement mechanism because there is no such thing as a worldwide government which makes worldwide laws. That is why the onus needs to fall more heavily on companies to comply voluntarily, which relies entirely on each company's goodwill.

What Can We Do?

Ultimately, specifically, because there are no enforcement mechanisms, reliance falls on the company to openly demonstrate to the public that not only are they willing to voluntarily adhere to the principles laid out in the Global Compact, but provide evidence that they do, to demonstrate that becoming a signatory of the Global Compact is not merely a symbolic - and ultimately empty - gesture of goodwill. To describe being a member of Compact as such is no exaggeration; an assessment of the Global Compact by McKinsey & Company (2004) of the Global Compact found that;

1. forty per cent of companies who joined said it made no impact on policy changes,
2. fifty-one claimed that they were going to make changes anyway but being a member made it more accessible, and;
3. A combined nine per cent said that changes would have been complex, or would not have happened at all, without being a member.

To further emphasise the symbolic nature of joining the Global Compact over any practical difference, the same report highlights that, at the time, six out of seven participants had not attended an international meeting. As the blog Style Considered (2021) describes rather concisely, companies use membership as an "easy way out" in regards to criticism regarding ethical and environmental practices. This is ultimately the definition of bluewashing, appearing to adhere to ethical standards without providing evidence. This is why, from the consumer's perspective, transparency is of the utmost importance; companies such as the Nylon company Econyl (Nyfeler, n.d.) and suncare producers People4Ocean (2021), both of which market their products with a heavy emphasis on environmental impact, advise that consumers combat green- and bluewashing by actively seeking out signs of the practices; citing measures such as checking if a product's price matches its value, researching a company's history and seeking evidence to reinforce claims of sustainable and ethical production. Thus, as accountability towards ethical practices in theory increases, the onus falls on companies to provide this evidence to assure the customer that they do comply with the Global Compact's ten standards - that being, if they are already. As the former company states, "numbers are always more trustworthy than buzzwords", naming how much emission each product cost to make as one example of such a number.

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