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Greenwashing as a Crime and the Urgency of Redesigning the Environmental Criminal Law Paradigm

Zico Junius Fernando
Faculty of Law, Universitas Bengkulu, Bengkulu, Indonesia

Wevy Efticha Sary
Faculty of Law, Universitas Bengkulu, Bengkulu, Indonesia

Ariesta Wibisono Anditya
Faculty of Law, University of Malaya, Kuala Lumpur, Malaysia

ABSTRACT: Greenwashing, a deceptive practice wherein corporations falsely present their products, services, or policies as environmentally friendly, has emerged as a serious threat to environmental protection and consumer trust in the era of sustainable development. This paper argues that greenwashing should be recognised not merely as an ethical or regulatory violation but as a criminal offence within the framework of environmental criminal law. Through a normative-juridical approach combined with a comparative analysis of legal frameworks in various jurisdictions, this study explores the limitations of current civil and administrative sanctions in deterring greenwashing practices. The analysis reveals that the absence of criminal liability has allowed corporations to manipulate sustainability narratives without facing substantial legal consequences. By examining the socio-legal harms of greenwashing, including environmental degradation, market distortion, and erosion of public confidence, this paper advocates for a paradigm shift in environmental law enforcement. It proposes the integration of greenwashing as a distinct criminal act under environmental law, emphasising principles such as strict liability, corporate criminal responsibility, and the need for restorative justice mechanisms. The study concludes with policy recommendations for legal reform that align with the principles of ecological justice and sustainable governance, reinforcing the urgency to criminalise greenwashing as part of a broader effort to protect both the environment and the rights of consumers.

KEYWORDS: Criminal Law; Environmental; Greenwashing.

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* Corresponding authors' e-mail: zjfernando@unib.ac.id

I. INTRODUCTION

The global environmental crisis has reached an unprecedented scale, threatening not only the sustainability of ecosystems but also the social and economic foundations of human civilisation. Climate change, biodiversity loss, air and water pollution, and deforestation have all intensified despite decades of legal, political, and institutional interventions.[1] According to the Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report (2023), without drastic and immediate reductions in greenhouse gas emissions, the world is on track to surpass the 1.5°C threshold within the next two decades, a scenario that could lead to irreversible ecological collapse. In parallel, international environmental agreements such as the Paris Agreement (2015) and the 2030 Agenda for Sustainable Development have emphasised the urgent need for systemic change across all sectors, including business and industry.[2] As public awareness and concern over environmental issues grow, there is increasing demand for companies to act responsibly and align their operations with principles of sustainability.

Amidst this backdrop, environmental claims have become a powerful tool for corporations to appeal to conscious consumers and secure legitimacy in an era of ecological urgency. Environmental, Social, and Governance (ESG) ratings, sustainability certifications, and corporate environmental disclosures are now mainstream instruments used to demonstrate a commitment to green practices. However, this trend has also led to the rise of greenwashing, a form of corporate deception whereby companies falsely present their products, services, or operations as environmentally friendly. First coined in 1986 by environmentalist Jay Westerveld, the term "greenwashing" originally criticised superficial hotel programs framed as environmental stewardship. Today, greenwashing has evolved beyond isolated instances of misleading advertising into a sophisticated and systemic form of corporate deception. While traditional consumer protection laws may address overtly false or misleading claims, they often

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1 Anthony Le Duc, "The Multiple Contexts of the Environmental Crisis" (2020) SSRN Electron Journal 1–30.

2 Norichika Kanie et al, "Rules to goals: emergence of new governance strategies for sustainable development" (2019) 14:6 Sustainability Science 1745–1749.

fall short when companies engage in more complex strategies such as selective disclosure, data manipulation, and the strategic use of vague or unverifiable environmental language. These practices are not merely marketing missteps; they represent deliberate efforts to construct a false narrative of sustainability, often coordinated across departments and jurisdictions. This systemic nature of deception, coupled with its capacity to cause widespread ecological and economic harm, justifies the need for a criminal law response that goes beyond the scope of civil or administrative remedies.[3]

Data from the Changing Markets Foundation (2021) found that 60% of sustainability claims in the fashion industry were unsubstantiated, with brands using vague terms like "eco-friendly" or "green" without measurable evidence. Similarly, in 2022, a Greenpeace Indonesia report revealed that several palm oil and energy companies operating in Sumatra and Kalimantan continued to engage in deforestation and peatland degradation, even as they publicly touted zero-deforestation commitments and environmental stewardship. These practices not only mislead consumers and investors but also contribute indirectly to environmental damage by allowing harmful activities to proceed unchecked under a veil of green legitimacy.[4]

The dangers of greenwashing are not merely symbolic; they produce tangible harm across ecological, social, and legal dimensions. First, greenwashing obstructs environmental accountability by masking unsustainable practices and deflecting scrutiny. Second, it creates unfair market conditions in which companies genuinely investing in sustainability must compete with those who only simulate such commitment. Third, greenwashing corrodes public trust in environmental governance, undermining efforts by civil society, regulatory bodies, and honest

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[3] Nirvaan Somany, "Greenwashing In Business: Examining The Impact Of Deceptive Environmental Claims On Consumer Behavior And Corporate Accountability" (2023) 08:04 International Journal of Social Science and Economic Research 908–920.

[4] Ahmad Dermawan, Otto Hospes & CJAM Termeer, "Between zero-deforestation and zero-tolerance from the state: Navigating strategies of palm oil companies of Indonesia" (2022) 136 Forest Policy and Economics 1–10.

businesses to promote genuine sustainability. Finally, it weakens democratic oversight by distorting the information landscape that consumers, investors, and policymakers rely on to make environmentally conscious decisions.

Despite these profound impacts, greenwashing remains inadequately addressed within most existing legal systems. In many jurisdictions, it is treated as a regulatory infraction or marketing violation rather than as a criminal offence. In Indonesia, for instance, Law No. 8 of 1999 on Consumer Protection and Law No. 32 of 2009 on Environmental Protection and Management (UU PPLH) provide limited legal tools to confront greenwashing, primarily through administrative and civil sanctions.[5] While these laws prohibit the dissemination of false or misleading environmental information, they fall short of recognising the strategic and systemic nature of greenwashing, particularly when conducted by powerful corporate actors with transnational operations. This regulatory gap undermines deterrence and emboldens corporations to continue manipulating environmental narratives with minimal legal consequences.

Meanwhile, the international legal community has begun to acknowledge the gravity of greenwashing but has yet to adopt a unified criminal law response. The European Union, through its proposed Green Claims Directive (2023), mandates that all environmental claims made in marketing must be independently verified and based on recognised scientific methodologies.[6] In the United States, the Federal Trade Commission (FTC) has updated its Green Guides to provide clearer definitions and enforcement tools against deceptive green advertising.[7] However, these instruments remain largely administrative in nature and do not yet elevate greenwashing to the level of criminality despite its potential to cause widespread public harm, economic fraud, and ecological damage.

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5 Irawati, Paramita Prananingtyas & Retno Catur Wulan, "Regulation Urgency of the Misleading "Greenwashing" Marketing Concept in Indonesia" (2023) 1270:1 IOP Conference Series Earth and Environmental Science 1–8.

6 Gabriella Marcatajo, "Green claims, green washing and consumer protection in the European Union" (2023) 30:1 Journal of Financial Crime 143–153.

7 Lynn L Bergeson, "Selling green: US FTC releases proposed revisions to the "Green Guides"" (2011) 20:3 Environmental Quality Management 77–83.

This gap between the systemic harms of greenwashing and the legal mechanisms available to address it calls for a fundamental rethinking of environmental law, particularly the role of criminal law as a means of social protection. Traditionally, criminal law has been seen as the *ultima ratio* (last resort), reserved for only the most serious forms of harm. However, in the case of environmental degradation, especially when it results from deliberate corporate misconduct, this principle must be re-evaluated. The scale and sophistication of modern environmental crime, including greenwashing, demand a more assertive and preventive legal response. Recognising greenwashing as a criminal offence would not only enhance the symbolic and normative power of environmental law but also provide more effective deterrence, ensure restorative justice for affected communities, and reinforce the moral duty of corporate environmental compliance.

Moreover, as a species of white-collar crime, greenwashing exhibits all the features that justify criminal intervention: it involves calculated deception, is often hidden from public view, disproportionately benefits powerful actors, and produces diffuse harms that are difficult to remedy through traditional civil litigation. Its normalisation poses a severe risk to ecological justice, as it enables the illusion of sustainability while allowing environmental harm to persist under legal radar. Thus, the criminalisation of greenwashing is not merely a punitive demand but a necessity for reshaping the legal paradigm of environmental protection in the 21st century. However, this proposal is not without controversy. Critics may argue that criminal law is an overly blunt instrument, raising concerns about overcriminalisation, enforcement feasibility, and the potential chilling effect on corporate environmental initiatives. Engaging with these counterarguments is essential to developing a balanced and robust legal framework.

II. METHODS

This research employs a normative legal research method[8], which focuses on the study of legal norms as found in statutory regulations and legal doctrines. To comprehensively examine the issue of greenwashing as an environmental crime, this study adopts three main approaches: the statutory approach, the conceptual approach, and the comparative approach.[9] The statutory approach is applied by analysing relevant laws and regulations, both national and international. At the national level, key legal instruments include Law No. 32 of 2009 on Environmental Protection and Management, Law No. 8 of 1999 on Consumer Protection, and provisions from the Indonesian Penal Code (KUHP), including the new Criminal Code set to take effect in 2026. Sectoral regulations and implementing provisions are also examined. At the international level, the research draws upon instruments such as the European Union's *Green Claims Directive* and the *Green Guides* issued by the United States Federal Trade Commission (FTC). The conceptual approach is used to explore and clarify the legal concepts that underpin the discussion on greenwashing, corporate criminal liability, ecological justice, and the shifting paradigm of environmental criminal law. This approach enables the research to engage with relevant legal theories, refine key terms, and develop a coherent legal argumentation structure. The comparative approach is employed to evaluate how various legal systems, particularly those of the European Union, the United States, Canada, etc, address the problem of greenwashing. This comparison aims to identify best practices, legal gaps, and effective regulatory models that can inform the development of a more responsive and robust environmental criminal framework in Indonesia. The nature of this research is descriptive-prescriptive. Descriptively, the research seeks to outline and examine how greenwashing manifests in practice, how current legal frameworks address it, and the extent to which existing norms provide

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8 Agus Salim, Ria Anggraeni Utami & Zico Junius Fernando, "Green Victimology: Sebuah Konsep Perlindungan Korban Dan Penegakan Hukum Lingkungan Di Indonesia" (2022) 7:1 Bina Hukum Lingkungan 59–79.

9 Akhmad Akhmad, Zico Junius Fernando & Papontee Teeraphan, "Unmasking Illicit Enrichment: A Comparative Analysis of Wealth Acquisition Under Indonesian, Thailand and Islamic Law" (2023) 8:2 Journal of Indonesian Legal Studies 899–934.

adequate legal protection. Prescriptively, the study aims to formulate legal recommendations and advocate for the recognition of greenwashing as a distinct criminal offence within the realm of environmental law. The data collected is analysed using content analysis. This method allows for an in-depth examination of the substantive content of legal texts, statutory provisions, international legal documents, scholarly literature, and relevant court decisions. Content analysis is particularly useful in identifying normative structures, interpretive meanings, and doctrinal coherence that support the research objectives and legal reasoning developed throughout this study.[10]

III. MANIFESTATIONS OF GREENWASHING PRACTICES IN THE CORPORATE SECTOR AND THEIR IMPACT ON ENVIRONMENTAL PROTECTION AND CONSUMER TRUST

Greenwashing, in the corporate context, is a form of deliberate misrepresentation whereby companies attempt to appear more environmentally responsible than they actually are. It is a communication strategy employed to construct a public image of ecological concern and sustainability without undertaking substantive environmental actions.[11] This phenomenon arises from the increasing societal and market demand for eco-consciousness. As environmental awareness becomes a significant determinant of consumer behaviour, investment decisions, and regulatory scrutiny, corporations face strong incentives to display environmental responsibility. However, instead of transforming their core business models to align with ecological values, many corporations engage in symbolic gestures or deceptive narratives that give the illusion of sustainability. These practices are not only misleading but strategically designed to manipulate stakeholder perceptions while preserving profits and avoiding the costs of genuine compliance or reform.

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[10] Erdianto Effendi et al, "Trading in influence (Indonesia): A critical study" (2023) 9:1 Cogent Social Science 1–13.

[11] Sejal Jaiswal, "Greenwashing and the Ethics of CSR" (2024) 6:5 International Journal For Multidisciplinary Research 1–14.

Greenwashing manifests in various forms and degrees of sophistication. At the most basic level, it includes the use of vague, undefined, or non-verifiable terms such as "green," "eco-safe," "planet-friendly," or "natural" in product packaging and advertisements.[12] These labels are often unregulated and unsupported by scientific evidence or third-party certification. More complex forms involve selective disclosure, where companies highlight environmentally beneficial aspects of their operations while omitting harmful practices. For instance, an energy company may publicise its investment in renewable technologies without disclosing its continued investment in fossil fuels. Additionally, some corporations create in-house "certifications" or use misleading imagery (e.g., green leaves, earth symbols, or animals) to imply environmental integrity. These strategies exploit the cognitive associations and good faith of environmentally conscious consumers.

Numerous case studies demonstrate how systemic and intentional these practices have become. In 2021, for example, the Changing Markets Foundation reported that 59% of sustainability claims by European fashion brands were misleading or unsubstantiated. Brands marketed collections labelled "Conscious" or "Sustainable" without disclosing that the majority of their production still relied on synthetic fibres derived from petrochemicals. In another instance, Shell, a multinational oil and gas company, launched an advertising campaign promoting its investment in biofuels and carbon capture, despite the fact that over 90% of its portfolio and capital expenditures continued to support fossil fuel extraction. These cases highlight how corporations instrumentalise environmental discourse not as a tool for change, but as a marketing weapon to secure social license, investor interest, and consumer loyalty.[13]

The implications of greenwashing for environmental protection are profound. First, it allows corporations to maintain business-as-usual

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12 Angeline Gautami Fernando, Bharadhwaj Sivakumaran & L Suganthi, "Nature of green advertisements in India: Are they greenwashed?" (2014) 24:3 Asian Journal of Communication 222–241.

13 Iva Jestratijevic, James O Uanhoro & Md Rafiqul Islam Rana, "Transparency of sustainability disclosures among luxury and mass-market fashion brands: Longitudinal approach" (2024) 436 Journal of Cleaner Production 1–8.

operations while projecting a false image of transformation. This stalls progress toward genuine sustainability because it diverts attention and resources from necessary structural changes. Second, greenwashing erodes the integrity of environmental governance. Regulatory authorities, civil society, and the public rely on accurate disclosures and truthful communication to monitor and evaluate corporate environmental performance. When these disclosures are tainted by falsehoods, accountability mechanisms weaken, and efforts to reduce pollution, mitigate climate change, and preserve biodiversity are compromised. Third, greenwashing distorts market dynamics. Corporations that invest heavily in authentic environmental practices often incur higher operational costs. When greenwashing entities reap reputational and financial benefits without similar investments, it creates an uneven playing field and disincentivises real sustainability.

In terms of consumer rights, greenwashing represents a significant violation of the right to accurate information and informed choice. Modern consumers are not merely passive buyers; they are moral agents who increasingly make decisions based on ethical, environmental, and social considerations. By misleading them through false claims, companies interfere with the autonomy of consumers and manipulate their intentions to "buy green".[14] This deception also constitutes a breach of the duty of good faith in commercial transactions. Moreover, when consumers eventually discover that they have been misled, their trust in sustainability labels, corporate responsibility, and even environmental activism as a whole is diminished. This can result in widespread cynicism and a decline in public participation in environmental initiatives.

Furthermore, greenwashing undermines the legitimacy of voluntary and market-based environmental mechanisms such as ecolabels, certifications, and ESG (Environmental, Social, and Governance) ratings. These instruments are designed to complement legal regulation by encouraging companies to self-regulate and improve transparency. However, when

[14] Patricia Citra Dewi & Dwi Desi Yayi Tarina, "The Impact of Greenwashing Advertising on Consumer Behavior" (2024) 7:2 Jurnal Hukum Magnum Opus 174–183.

companies misuse these frameworks or when certification bodies fail to maintain rigorous standards, it delegitimises the entire system of non-state environmental governance. Investors, too, are affected. Financial institutions increasingly integrate ESG criteria into investment portfolios, assuming that sustainability-aligned companies are less risky and more future-proof. Greenwashing distorts these metrics, exposing investors to hidden risks and perpetuating the financing of environmentally destructive activities.

In the context of environmental justice, greenwashing disproportionately affects marginalised communities. Many greenwashing campaigns target urban, middle-class consumers while concealing environmental harm that is often outsourced to rural, Indigenous, or low-income areas, whether through pollution, land grabbing, or resource extraction.[15] This perpetuates environmental inequality and shields corporate actors from being held accountable for harm caused outside of media and regulatory visibility. It also silences the voices of communities on the frontlines of environmental degradation, as corporate green narratives dominate public discourse.

Ultimately, the widespread prevalence of greenwashing reflects a broader failure of legal systems to adequately regulate the intersection of commerce, information, and the environment. While some jurisdictions provide mechanisms to challenge false advertising or misleading consumer claims, most do not explicitly recognise greenwashing as an environmental offence, let alone a criminal one. This regulatory gap not only enables ongoing manipulation but also hinders the transition toward a just and ecologically sustainable economy.

IV. LEGAL FRAMEWORKS GOVERNING GREENWASHING: NATIONAL REGULATIONS RESPONSES

The regulation of greenwashing within both national and international legal frameworks remains fragmented and, in many jurisdictions, insufficiently developed. Although greenwashing has emerged as a critical

[15] Ruthie Carmichael, "Exploring Environmental Inequalities among Marginalized Communities across the World" (2023) 1:1 International Journal of Humaniy and Social Sciences 30–40.

environmental and consumer rights issue, most legal systems do not yet address it comprehensively, particularly from a criminal law perspective. Instead, regulatory responses tend to fall within the domains of consumer protection, advertising law, and environmental regulation each of which contains certain mechanisms that, while helpful, are often limited in scope and enforcement. As awareness of greenwashing grows and public pressure intensifies, legal systems around the world are beginning to experiment with targeted legal instruments. However, there remains a significant disparity between countries, and no universal legal standard currently exists to regulate greenwashing in a unified, enforceable manner.

In the context of Indonesia, greenwashing is not yet specifically addressed in environmental or consumer legislation as a distinct offense. However, certain legal provisions can be interpreted to indirectly respond to greenwashing practices.[16] The Law No. 8 of 1999 on Consumer Protection (Undang-Undang Perlindungan Konsumen) contains provisions that prohibit misleading advertising and inaccurate information. Article 9 paragraph (1) of this law explicitly states that business actors are prohibited from offering, promoting, or advertising goods and/or services incorrectly or misleadingly regarding their quality, quantity, ingredients, usefulness, origin, etc. This clause could theoretically be applied to greenwashing claims that misrepresent the environmental attributes of a product. Nevertheless, in practice, enforcement is weak due to limited institutional oversight and the absence of specific guidelines or legal definitions related to environmental misrepresentation.

In addition, Law No. 32 of 2009 on Environmental Protection and Management offers a general legal framework for holding companies accountable for environmental damage. This law allows for administrative, civil, and criminal sanctions against individuals or entities responsible for pollution and environmental degradation. However, the focus of this statute is primarily on direct environmental harm (e.g., pollution, land

[16] Muhammad Farkhan, "Mengkaji Jangkauan Hukum Positif terhadap Greenwashing: Analisis terhadap Beberapa Peraturan Perundang-undangan" (2024) 4:2 Jurnal Persaingan Usaha 112–124.

degradation, deforestation), rather than indirect or deceptive practices such as greenwashing.

While Article 66 of the law recognizes the right of the public to access environmental information and participate in environmental protection, the statute lacks detailed provisions regarding transparency obligations in environmental claims or punitive measures for false or misleading environmental communication. Thus, current Indonesian environmental law does not yet contain a robust regulatory mechanism to address greenwashing specifically or systematically.[17]

The absence of explicit legal provisions on greenwashing in Indonesia reflects a broader structural gap in aligning environmental governance with corporate communication accountability. This regulatory vacuum creates uncertainty not only for enforcement agencies but also for businesses attempting to navigate ethical marketing standards. Without clear definitional boundaries or technical parameters, companies remain free to exploit the positive consumer perception of sustainability without undergoing rigorous environmental performance evaluation. Moreover, the lack of binding environmental disclosure standards exacerbates the issue. Unlike in jurisdictions where sustainability reporting is integrated into corporate governance obligations such as through mandatory ESG (Environmental, Social, and Governance) disclosures or standardized sustainability audits Indonesia still relies heavily on voluntary reporting frameworks.

The result is a regulatory environment in which green marketing operates largely unchecked, and the threshold for legal liability remains high, requiring demonstrable and direct environmental harm rather than recognizing the systemic effects of environmental misinformation. The fragmentation is further deepened by limited interagency coordination between consumer protection bodies, environmental regulators, and competition authorities, which hinders the development of a unified

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[17] Zentoni, Budi Santoso & David M L Tobing, "Mengkriminalisasi Greenwashing: Menjawab Tantangan Perlindungan Konsumen di Era Keberlanjutan: Criminalizing Greenwashing: Addressing Consumer Protection Challenges in the Era of Sustainability" (2025) 26:1 Jurnal Litigasi 102–137.

approach to detecting, assessing, and sanctioning greenwashing. In the absence of a comprehensive legal framework, public accountability is often left to civil society, media, or non-governmental organizations, which, while crucial, lack formal legal authority to impose sanctions or mandate corrective action. As the private sector becomes increasingly strategic in deploying green narratives for branding and investment purposes, the need for a codified, enforceable standard in Indonesia becomes more pressing one that bridges consumer protection and environmental integrity while recognizing the evolving nature of corporate environmental communication.

V. LIMITATIONS OF ADMINISTRATIVE AND CIVIL LAW IN ADDRESSING GREENWASHING: THE CASE FOR CRIMINAL LAW INTERVENTION

Greenwashing has evolved from a marketing gimmick into a systemic corporate strategy aimed at shaping public perception, influencing regulatory outcomes, and securing market advantages under the false pretense of environmental responsibility.[18] Despite its growing prevalence and harmful impact, legal systems around the world have been slow to adapt. Most jurisdictions rely primarily on administrative and civil legal frameworks to regulate environmental misrepresentation, including greenwashing. While these frameworks offer some tools to curb misleading claims, they suffer from profound structural weaknesses that limit their effectiveness, particularly in dealing with sophisticated, intentional, and large-scale corporate deception. This legal insufficiency highlights the need for the integration of criminal law approaches, which are better equipped to ensure accountability, deterrence, and the protection of public and ecological interests.

One of the principal weaknesses of administrative law in this context is its inherently remedial and procedural character. Administrative sanctions typically come in the form of modest fines, suspension of marketing approvals, or orders to rectify false claims. These responses, while

[18] Thomas P Lyon & A Wren Montgomery, "The Means and End of Greenwash" (2015) 28:2 Organization and Environment 223–249.

necessary, often treat greenwashing as a technical violation of labeling or advertising standards, rather than as a morally blameworthy act with systemic consequences. Because the financial penalties are usually small in proportion to the profits generated through deceptive environmental branding, such sanctions are insufficient to change corporate behavior. Large corporations, particularly those with vast marketing budgets, tend to internalize these penalties as routine business expenses. The absence of reputational or criminal consequences means that greenwashing becomes a low-risk, high-reward practice, undermining the deterrent purpose of law.

Moreover, administrative agencies often lack the resources, independence, and technical competence to effectively investigate and prosecute greenwashing. Environmental claims can involve complex scientific data, life-cycle assessments, supply chain traceability, and carbon accounting all of which require specialized knowledge. Administrative bodies, especially in developing countries, frequently operate under budgetary constraints and political pressure, rendering them ineffective in pursuing deep corporate investigations. Many lack subpoena powers or the authority to compel the disclosure of internal corporate documents, which is critical for uncovering intentional deception. Consequently, regulatory oversight is often superficial, reactive, and constrained by limited institutional capacity.

In parallel, civil law remedies, such as tort claims or unfair competition suits, offer victims of greenwashing a path to seek justice. However, these legal avenues are frequently inaccessible, slow, and procedurally burdensome. Civil litigation requires plaintiffs be they consumers, competitors, or civil society organizations to establish legal standing, demonstrate harm, and prove causation between the misleading claim and the injury suffered. In cases involving greenwashing, this burden of proof is particularly heavy, as the harms are often diffuse, indirect, and intangible. For example, a consumer misled into buying a product falsely advertised as "100% recyclable" may struggle to prove individual damages in court, even though the deception contributes to broader environmental and market harms.

Additionally, civil lawsuits often pit under-resourced plaintiffs against well-funded corporate legal teams, creating a structural imbalance in access to

justice. Even if a judgment is obtained against the corporation, the typical outcomes financial compensation, retraction orders, or labeling changes rarely result in meaningful systemic reform. Civil law, by design, focuses on the resolution of disputes between private parties, not on the protection of public goods or the punishment of conduct harmful to society at large. Thus, civil litigation may resolve isolated incidents of greenwashing but fails to address the broader patterns of deceptive behavior or deter future misconduct across industries.

Both administrative and civil legal frameworks also fail to fully capture the normative and symbolic dimensions of greenwashing. Greenwashing is not merely a violation of regulatory norms or consumer trust; it is a form of environmental fraud that obstructs efforts to combat climate change, weakens democratic environmental policymaking, and perpetuates ecological injustice. It enables polluting corporations to maintain social legitimacy, divert investment away from genuinely sustainable alternatives, and co-opt environmental discourse to serve profit-driven motives. These harms affect not just consumers and competitors, but the entire global community, particularly vulnerable populations disproportionately impacted by environmental degradation. By reducing greenwashing to a compliance issue, existing legal approaches underestimate its true social and ecological gravity.

In light of these limitations, criminal law offers a necessary and complementary legal pathway. Criminal law is distinct in its ability to express public condemnation, affirm shared values, and enforce accountability for acts deemed socially intolerable. By recognizing greenwashing as a criminal offense particularly when conducted with intent, knowledge, or reckless disregard legal systems can assert that environmental deception is not simply unethical or undesirable, but legally and morally unacceptable.[19] This transformation in legal framing aligns with evolving principles of ecological justice and reinforces the idea that

[19] David Markham, Anshuman Khare & Terry Beckman, "Greenwashing: A Proposal To Restrict Its Spread" (2014) 16:04 Journal Environmental Assessment Policy and Management 1–8.

protecting the environment and public trust is a core societal interest deserving of the strongest legal protection.

Criminal law also introduces a more robust set of tools for enforcement. Unlike administrative bodies or civil courts, criminal investigators and prosecutors have the authority to launch independent inquiries, obtain warrants, seize evidence, and interrogate corporate executives. These powers are crucial for uncovering internal corporate communications, marketing strategies, and environmental audits that may reveal intentional misconduct. Furthermore, modern developments in corporate criminal liability recognized in both common law and civil law jurisdictions enable prosecutors to hold corporations, not just individuals, responsible for organizational wrongdoing. This is especially relevant for greenwashing, which often arises from institutional policies rather than the actions of a single rogue employee.

Criminal penalties also provide stronger deterrence. The prospect of criminal conviction, public trial, and reputational damage can significantly alter corporate cost-benefit analyses when considering the risks of deceptive environmental claims. Penalties may include large fines based on turnover, prohibition from engaging in certain types of advertising, disqualification of executives, and in extreme cases, imprisonment. These consequences send a clear message that the manipulation of environmental information is a serious offense, not a mere administrative lapse. When combined with restorative sanctions such as funding independent environmental audits, issuing public apologies, or supporting environmental education criminal law can also contribute to broader regulatory reforms and public awareness.

Furthermore, the application of criminal law can strengthen the legitimacy of environmental governance. By enforcing legal norms consistently and visibly, criminal prosecutions for greenwashing can rebuild public trust in environmental institutions and demonstrate that sustainability is not just a rhetorical goal, but a legal and moral obligation. In doing so, criminal law reinforces the integrity of consumer choice, levels the playing field for honest businesses, and ensures that environmental progress is based on truthful, verifiable, and accountable corporate behavior.

VI. TOWARDS THE CRIMINALIZATION OF GREENWASHING IN INDONESIA: CONSTRUCTING A PENAL ENVIRONMENTAL LAW MODEL BASED ON ECOLOGICAL JUSTICE AND CORPORATE LIABILITY

Formulating the concept and model of criminalizing greenwashing in Indonesia's environmental criminal law is a strategic and urgent step to address the systematic manipulation of environmental information by corporations. Greenwashing, as a deliberate or grossly negligent act of presenting misleading or false environmental claims to the public, severely undermines the integrity of ecological data, deceives consumers, and obstructs the transition toward genuine sustainable development. In this context, criminalizing greenwashing should not be perceived merely as the addition of a new criminal norm, but as a value-based reconstruction of environmental criminal law that places ecological protection and corporate honesty as fundamental legal priorities. The formulation of such a criminal offense must be guided by the evolving developments in environmental law, principles of ecological justice, and the growing recognition of corporate criminal liability in Indonesian legal doctrine.

Conceptually, greenwashing should be defined as any intentional or grossly negligent dissemination of false, misleading, or unverifiable environmental information to the public whether through advertising, product labeling, sustainability reporting, or other forms of public communication with the objective of obtaining economic gain, avoiding legal scrutiny, or manipulating public perception regarding the environmental performance of a product, service, or corporate entity.[20] In criminal law terms, this offense must accommodate both *dolus* (intent) and *culpa lata* (gross negligence) to distinguish administrative irregularities from more serious, manipulative acts that constitute criminal misconduct and erode public trust in environmental governance.[21]

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[20] Matthew J. Spaniol et al, "Defining Greenwashing: A Concept Analysis" (2024) 16:20 Sustainability 1–17.

[21] Erik W Johnson, Jennifer Schwartz & Alana R Inlow, "The criminalization of environmental harm: a study of the most serious environmental offenses prosecuted by the U.S. federal government, 1985-2010" (2020) 6:3 Environmental Sociology 307–321.

In Indonesia, a criminal model addressing greenwashing can be formulated by introducing a specific provision in Book II of the New Criminal Code (KUHP) or by revising Law No. 32 of 2009 on Environmental Protection and Management (PPLH) to include greenwashing as an environmental crime. The offense must include the following elements: (1) a public environmental claim made by a company or its representatives; (2) the claim being proven false, misleading, or lacking scientific verification; (3) the intent or gross negligence of the perpetrator to gain profit or avoid accountability; and (4) actual or potential harm to the environment, consumer protection, or market fairness. Such formulation should be *lex specialis*, reflecting the multidimensional harm greenwashing causes to ecological systems, regulatory frameworks, and public confidence.

In terms of criminal liability, it is critical that corporations be recognized as legitimate legal subjects capable of committing environmental crimes. This is in line with Article 118 of the PPLH Law and Article 45 of the new KUHP, which recognize the criminal liability of legal persons. In practice, liability should be applied at multiple levels: (1) direct liability of the corporate entity that benefited from the offense; (2) liability of executives or decision-makers such as directors, commissioners, sustainability officers, or marketing managers who planned or approved the greenwashing practice; and (3) liability of third-party actors, such as advertising agencies or consultants, who knowingly contributed to the dissemination of deceptive environmental content. This multilayered model ensures comprehensive accountability and prevents evasion through complex corporate structures.

Criminal sanctions should reflect both retributive and restorative dimensions. These may include significant monetary fines calculated as a percentage of the corporation's annual revenue, suspension of environmental marketing rights, mandatory public corrections and apologies, product recalls, and compulsory funding of independent audits or sustainability education initiatives. In severe or repeated cases, custodial sentences may be applied to executives who personally ordered or approved the misleading claims. Beyond punishment, this model emphasizes deterrence, truth correction, and institutional learning as pillars of effective

enforcement. It aligns the symbolic force of criminal law with the growing societal demand for ecological integrity and corporate transparency.

To build a strong foundation for such a legal framework, Indonesia can draw from comparative insights and legal innovations implemented in other jurisdictions. These global models reveal a growing consensus that greenwashing is not merely unethical marketing, but a strategic and potentially criminal form of public deception with far-reaching environmental consequences.

The introduction of the Green Claims Directive (2023) in the European Union represents a significant regulatory response to the proliferation of unsubstantiated environmental claims in the marketplace.[22] Designed to complement existing EU consumer and sustainability legislation, this directive specifically targets voluntary environmental communications, with an emphasis on aligning marketing practices with scientifically valid and verifiable information. It seeks to ensure that environmental assertions made by companies are not only factually accurate but also presented in a way that does not mislead or manipulate consumer perception.

To operationalize its goals, the Directive outlines detailed procedural requirements that businesses must follow prior to making any environmental claim. These include mandatory disclosure of methodological assumptions, data sources used in environmental assessments, and the scope of any life-cycle analysis employed to support such claims. The Directive also introduces a uniform assessment standard applicable across all Member States, thereby minimizing legal fragmentation and regulatory arbitrage within the EU's single market. Companies are expected to undergo independent verification procedures conducted by certified bodies before claims are communicated to consumers.

This legislative initiative also establishes obligations for Member States to create or designate competent national authorities responsible for monitoring and enforcing compliance. These authorities are empowered to conduct spot checks, respond to complaints, and initiate investigations into

[22] Annette Rexroth, "Green Claims oder Greenwashing - was ist erlaubt und was nicht?" (2023) 77:S3 Lebensmittelchemie 1–7.

potentially misleading claims. When a violation is identified, the Directive authorizes the application of a graduated scale of administrative actions including but not limited to corrective orders, public exposure of non-compliance, removal of products from the market, and imposition of proportionate financial sanctions commensurate with the severity and economic impact of the violation. The Green Claims Directive is not an isolated instrument. It functions in tandem with broader EU policy instruments aimed at enhancing environmental transparency and corporate sustainability accountability. Among these are the Corporate Sustainability Reporting Directive (CSRD), which standardizes ESG disclosure obligations, and the EU Taxonomy Regulation, which classifies environmentally sustainable economic activities. These legal frameworks form part of an interconnected regime that subjects environmental claims to both market discipline and legal oversight, creating cross-compliance obligations for businesses operating in multiple regulatory domains.

Moreover, the Directive contributes to the development of a structured evidentiary threshold for environmental representation, distinguishing between aspirational branding and legally recognizable claims. This distinction is essential in clarifying the boundary between general corporate values or goals and factual statements subject to enforcement. As such, the Directive provides regulatory clarity in an area previously dominated by ambiguity and soft self-regulation, particularly in sectors like fashion, automotive, fast-moving consumer goods, and energy, where green claims are frequently deployed in advertising.

While enforcement will be decentralized across EU Member States, the Directive promotes coherence through periodic evaluation, public reporting, and the possibility of European Commission-issued delegated acts to update standards in response to technological or scientific developments. Additionally, the regulation introduces the prospect of enhanced cooperation mechanisms between enforcement bodies, particularly in cross-border cases involving multinational companies.

The enactment of France's Climate and Resilience Law (2021) marks a turning point in the legal treatment of environmental marketing within national regulatory frameworks. Rather than treating sustainability

communication as a matter of soft self-regulation or consumer ethics, the French legislature has incorporated it into the core structure of enforceable environmental law.[23] The legislation applies not only to direct product advertising but also to broader corporate messaging across media platforms, placing strict conditions on how environmental benefits may be represented to the public. Companies must now demonstrate a full and measurable decarbonization plan before invoking terms such as "carbon neutral," and these plans are subject to scrutiny by relevant regulatory authorities. The legal framework also requires that any emissions offsetting mechanisms used in support of carbon neutrality claims be scientifically validated and transparently disclosed. Regulatory bodies, including the French Advertising Regulatory Authority (ARPP) and Directorate-General for Competition, Consumer Affairs, and Fraud Prevention (DGCCRF), have been given enhanced powers to oversee compliance, initiate investigations, and impose sanctions where necessary. Furthermore, the law anticipates integration with future climate policy instruments by encouraging a consistent methodology for carbon accounting in advertising claims.[24] France's legal innovation in this domain also signals a shift in regulatory logic: environmental misinformation is no longer seen merely as a matter of misleading the consumer, but as a distortion of public knowledge that directly affects the democratic legitimacy of environmental policy debates. The law's enforcement mechanisms are supported by clear procedural obligations for businesses, including disclosure duties, audit capabilities, and the formal recognition of non-governmental organizations as watchdog actors in holding violators to account.

Germany addresses the issue of environmental misinformation through a well-established framework rooted in competition and consumer protection law, particularly under the Gesetz gegen den unlauteren Wettbewerb (UWG), or Unfair Competition Act. While the UWG does not contain

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[23] Leila Elgaaied Gambier & Laurent Bertrandias, "Environmental Regulations and Awareness-raising Campaigns: Promoting Behavioral Change through Government Interventions" in *Marketing for Sustainable Development: Rethinking Consumption Models*, 1st ed (London: ISTE Ltd and John Wiley & Sons, Inc, 2021) 157-177.

[24] Isabelle De Silva, "Tackling the Challenges Raised by the Digitalization of the Economy: Recent Experiences of the French Competition Authority" (2019) 64:1 The Antitrust Bulletin 3–10.

specific provisions that define or prohibit greenwashing per se, its general clauses on misleading advertising are interpreted to encompass deceptive environmental marketing. [25]The law allows for a wide range of legal standing, enabling consumer associations, industry competitors, and public interest groups to initiate civil litigation against companies whose environmental claims are proven to be factually incorrect, misleading by omission, or unverifiable according to prevailing scientific standards. In practice, this has created a legal environment conducive to proactive enforcement, even in the absence of explicit greenwashing terminology.

German jurisprudence places considerable emphasis on scientific substantiation, particularly through life-cycle assessment (LCA) and certified environmental labeling schemes. Courts often examine whether environmental claims are supported by comprehensive and methodologically transparent data, covering not only the product's use phase but also its manufacturing, distribution, and disposal stages. Claims that refer to terms like “sustainable,” “climate positive,” or “eco-friendly” are scrutinized for their semantic clarity, empirical support, and potential to mislead the average consumer. Companies are expected to ensure that such claims are not based on selective data or internal evaluations alone but are validated by third-party certifying bodies that adhere to recognized international standards, such as ISO 14040 for LCA or EMAS (Eco-Management and Audit Scheme). Furthermore, the German legal framework aligns closely with the country’s broader regulatory and industrial culture, which privileges technocratic rationality and evidence-based compliance. Regulatory authorities and courts demonstrate a high degree of deference to scientific expertise in determining the credibility of environmental communications, which in turn incentivizes businesses to invest in robust environmental auditing and disclosure systems. The UWG operates in tandem with sectoral laws such as the Packaging Act, Energy Labeling Act, and Product Safety Act which reinforce the need for accurate and transparent environmental communication across industries. Additionally, the German Advertising Standards Council (Deutscher

[25] Matthias Hofer & Iris Amschl, “Greenwashing und UWG: Ein kurzes Update” (2024) 4:2 Nachhaltigkeitsrecht 131–135.

Werberat) issues non-binding guidance on sustainability messaging, although enforcement remains largely within the domain of civil litigation and judicial interpretation under UWG.[26]

In Canada, the regulation of greenwashing falls under the ambit of the Competition Act, a federal statute primarily designed to maintain fair competition and protect consumers from deceptive marketing practices. The Act prohibits materially false or misleading representations made to the public in the promotion of any business interest, including environmental claims. Greenwashing is addressed under the general prohibition against deceptive marketing, and enforcement is carried out by the Competition Bureau, an independent law enforcement agency with broad investigative powers. Although the Act does not include a specific definition of greenwashing, its provisions are sufficiently flexible to cover a wide range of misleading environmental representations, particularly those that lack scientific substantiation or that omit material facts necessary for consumers to make informed decisions.

The Bureau has issued Environmental Claims Guidelines, which provide detailed interpretive guidance for businesses making environmental representations. These guidelines emphasize that terms such as "green," "eco-safe," "sustainable," or "non-toxic" must be clear, specific, and verifiable, and should be based on competent and reliable scientific evidence. Claims must not be vague or general, nor should they rely solely on internal evaluations or self-certification. Instead, businesses are expected to conduct third-party verified assessments, including environmental impact analyses that account for the full life cycle of the product. The guidelines also caution against the use of environmental imagery, symbols, or color schemes that may falsely imply certification or ecological superiority when no such verification exists.

Canada's enforcement regime permits both civil and criminal action depending on the nature and severity of the offense. The Competition Bureau can initiate formal investigations, execute search warrants, and impose administrative monetary penalties (AMPs). In serious cases involving intentional deception, criminal charges may be pursued under the

[26] *Ibid.*

false or misleading advertising provisions of the Act. The Bureau has exercised these powers in actions against prominent companies across various sectors including retail, automotive, and consumer goods for making unsubstantiated environmental claims. In some instances, these enforcement actions have led to settlements involving corrective advertising, financial penalties, and compliance programs mandated by consent agreements.

Canada's regulatory infrastructure also includes cooperative arrangements between the Competition Bureau and other federal entities, such as Environment and Climate Change Canada (ECCC) and the Canadian Standards Association (CSA), which help ensure that environmental marketing is aligned with broader national sustainability standards.[27] This inter-agency collaboration supports a multi-layered approach to compliance, combining enforcement with public education and standard-setting. Additionally, provincial laws such as those concerning consumer protection and environmental labeling can also intersect with federal regulations, allowing for multiple avenues of accountability.

The Canadian legal context reflects a clear expectation that environmental claims must be grounded in empirical evidence and that businesses bear the responsibility for the accuracy and transparency of such representations. The integration of competition law with environmental messaging regulation places greenwashing within the dual framework of consumer protection and commercial integrity, reinforcing the notion that false sustainability claims can distort markets just as much as they mislead individuals.

In the United States, the primary federal mechanism for addressing greenwashing is administered by the Federal Trade Commission (FTC), which exercises its authority under Section 5 of the Federal Trade Commission Act a statute prohibiting "unfair or deceptive acts or practices

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[27] Peter Clancy & L Anders Sandberg, "Formulating standards for sustainable forest management in Canada" (1997) 6:4 Business Strategy and the Environment 206–217.

in or affecting commerce".[28] Although the U.S. does not yet have a statute specifically criminalizing greenwashing, the FTC's Green Guides, first issued in 1992 and updated in 1996, 1998, and 2012, serve as an essential interpretive tool for evaluating the legitimacy of environmental claims made by businesses. These Guides, while not legally binding in themselves, inform regulatory enforcement and judicial interpretation by articulating principles and standards for acceptable environmental marketing. The Guides are currently undergoing another round of revision to reflect recent developments in sustainability practices and consumer behavior.

The Green Guides address a wide range of environmental marketing issues, including claims such as "recyclable," "compostable," "carbon offset," "biodegradable," and "non-toxic." They provide detailed guidance on how such terms should be substantiated, disclosed, and contextualized to avoid misleading consumers. For example, if a product is labeled as "recyclable," but is not accepted by a substantial majority of recycling programs where the product is sold, the claim may be considered deceptive. The Guides also advise that any qualifications or conditions affecting the truthfulness of a claim must be clearly and prominently disclosed, ensuring that consumers are not misled by generalizations or omissions. Importantly, environmental imagery such as green logos or nature-themed designs is also subject to scrutiny when it implies an unsupported environmental benefit.

The FTC has taken active enforcement actions under this framework, especially against high-profile corporations whose environmental claims have proven deceptive. Notable cases include proceedings against Volkswagen, stemming from its emissions-cheating scandal, which involved the company's false advertising of "clean diesel" vehicles. The FTC's complaint alleged that Volkswagen misrepresented the environmental attributes of its products, resulting in both economic and reputational damage to consumers. Another prominent case involved Kohl's and Walmart, where the FTC charged both retailers for falsely marketing rayon textiles as "eco-friendly bamboo," despite their environmentally harmful manufacturing processes. These cases

[28] Edward Bank, "Fashion's Greenwashing Problem and How to Better Protect Consumers" (2024) SSRN Electronic Journal 1–18.

demonstrate the agency's willingness to pursue substantial penalties and corrective actions, including mandatory disclosures, consumer redress, and long-term compliance monitoring.

While greenwashing is not currently criminalized at the federal level, the FTC's regulatory posture has grown increasingly assertive, signaling a shift toward more rigorous legal accountability. The agency has expressed interest in expanding enforcement capacity, including exploring partnerships with state attorneys general and international regulators to address cross-border marketing violations. Additionally, public demand for transparency and corporate accountability has prompted discussions in Congress and among legal scholars about codifying clearer statutory prohibitions or even introducing criminal liability for egregious and intentional environmental fraud. This evolving discourse suggests that greenwashing is moving beyond the realm of marketing ethics into the domain of serious consumer protection and regulatory policy.

In addition to FTC oversight, the U.S. regulatory landscape also includes voluntary certification programs such as ENERGY STAR, USDA Organic, and LEED certification which indirectly influence the standards for credible environmental claims.[29] While these programs do not have enforcement powers, their widespread adoption and consumer recognition create informal benchmarks for substantiating green credentials. Furthermore, some state-level initiatives such as California's laws on environmental labeling and truth-in-advertising provide additional mechanisms for scrutiny, reinforcing a multi-layered regulatory environment.

Australia has taken increasingly assertive steps to address greenwashing by integrating consumer protection, regulatory oversight, and potential criminal accountability into a unified legal framework. At the center of this enforcement model is the Australian Competition and Consumer Commission (ACCC), the independent statutory authority tasked with

[29] Errol E Meidinger, "Environmental Certification Systems and U.S. Environmental Law: Closer than You May Think" (2005) SSRN Electron Journal 1–18.

promoting competition, fair trading, and consumer protection.[30] In recent years, the ACCC has significantly heightened its scrutiny of environmental claims made by businesses, launching targeted audits, compliance reviews, and public warnings against misleading green marketing practices. These actions are grounded in the provisions of the Australian Consumer Law (ACL), which forms part of the *Competition and Consumer Act 2010* and applies uniformly across all Australian states and territories.

Under the ACL, businesses are prohibited from engaging in false, misleading, or deceptive conduct, including in the representation of environmental attributes of goods and services. The ACCC has made it clear that commonly used terms such as "carbon neutral," "environmentally friendly," "green," or "sustainably made" must be substantiated by robust scientific evidence. Claims must reflect the full environmental impact of a product across its life cycle and must not rely on vague language, selective data presentation, or unverified offsetting schemes. Businesses are also expected to clearly disclose the basis for any claims, including the methodologies used and the boundaries of any carbon accounting or sustainability assessments performed.

The ACCC has issued compliance guidance to assist businesses in navigating their legal obligations when making environmental representations. These guidelines emphasize that the burden of proof rests with the business, and that substantiation must be available at the time the claim is made not in response to regulatory inquiry. The agency has also flagged that environmental imagery and branding elements can contribute to misleading impressions, even in the absence of explicit verbal claims, and that visual cues such as green colors, leaves, or nature motifs may constitute representations that fall within the scope of legal review.

What distinguishes the Australian model is its hybrid enforcement approach, which allows for administrative interventions, civil litigation, and, in serious cases, criminal prosecution. The ACL provides the ACCC with broad enforcement powers, including issuing infringement notices, initiating proceedings in Federal Court, and seeking penalties such as

[30] Isabel Devitt, "Greenwashing in the Meat and Seafood Industry" (2024) 6 University of South Australia Law Review 55-75.

injunctions, corrective advertising, compensation orders, and pecuniary penalties that can reach millions of dollars. In more severe instances such as repeated or intentional deception the law also allows for criminal charges to be filed against corporate officers or entities that breach consumer trust through greenwashing. These legal avenues underscore Australia's view that environmental misrepresentation is not only an ethical lapse but also a matter of market integrity and public interest. To enhance public awareness and regulatory compliance, the ACCC also engages in proactive educational campaigns, including guidance for small and medium enterprises (SMEs), and collaborates with industry associations to promote best practices. In 2022, the ACCC conducted an internet sweep of 247 businesses across sectors such as cosmetics, fashion, food, and household products, identifying numerous examples of potentially misleading environmental claims. The sweep aimed not only to identify violations but also to inform future enforcement priorities and encourage voluntary corrective action.

Australia's model reflects a regulatory ecosystem in which environmental claims are subject to legal accountability, scientific validation, and public transparency, supported by a combination of statutory enforcement powers and collaborative compliance mechanisms. It positions the ACCC not only as a reactive enforcer but as an active regulator shaping the norms of sustainable communication in a competitive and climate-conscious marketplace.

From these international examples, it is clear that criminalizing greenwashing is not an isolated legal trend, but part of a global transformation in how the law addresses environmental misinformation. Each jurisdiction provides valuable lessons on institutional design, evidentiary standards, and the integration of environmental science with legal reasoning. Indonesia is currently positioned at a critical juncture to design a progressive and contextualized environmental criminal law framework capable of addressing the growing challenge of greenwashing. Although existing regulations such as Law No. 8 of 1999 on Consumer Protection and Law No. 32 of 2009 on Environmental Protection and Management offer general legal grounds regarding misleading information

and liability for environmental damage, neither law specifically addresses corporate practices that involve the strategic manipulation of sustainability claims. This regulatory gap becomes more apparent when compared to legal models from other jurisdictions that have begun to establish clearer and more scientifically grounded standards for environmental communication in both public and commercial domains.

For instance, the European Union, through its Green Claims Directive (2023), requires that any environmental claim be supported by verifiable scientific evidence. Businesses must disclose the methodologies, data sources, and scope of any life-cycle assessment used to substantiate environmental assertions. Prior to public dissemination, all claims are subject to independent third-party verification. The Directive also compels Member States to designate competent enforcement authorities with powers to conduct inspections, remove non-compliant products from the market, and impose proportionate administrative sanctions. This framework reduces legal fragmentation while empowering national-level enforcement within a harmonized regional structure.

France, on the other hand, has taken a more proactive approach through the Climate and Resilience Law (2021), which bans advertisements declaring a product to be "carbon neutral" without a measurable and verifiable decarbonization plan. Companies are required to fully disclose the carbon offsetting mechanisms they employ, subject to oversight by regulatory bodies such as ARPP and DGCCRF. In the Indonesian context, this model offers important lessons as local and multinational businesses increasingly use terms like "carbon neutral," "eco-friendly," or "sustainable" in marketing without credible data or independently audited emissions reporting.

Germany demonstrates how scientific substantiation serves as the foundation of legal scrutiny for environmental claims through its Unfair Competition Act (UWG). Although UWG does not explicitly mention greenwashing, German courts consistently evaluate environmental claims using rigorous standards such as life-cycle assessment (LCA) and certification by third-party organizations compliant with international norms like ISO 14040 or EMAS. Courts closely examine whether claims

are misleading, semantically vague, or supported by incomplete internal data. This approach is aligned with Germany's broader regulatory culture that prioritizes technocratic rationality and evidence-based compliance an ethos that Indonesia can adapt when developing enforcement mechanisms that integrate environmental science into legal interpretation.

In Canada, greenwashing is regulated under the Competition Act, which enables both civil and criminal enforcement depending on the severity of the offense. The Competition Bureau has issued guidelines stating that environmental terms such as "green," "eco-safe," or "non-toxic" must be specific, clear, and verifiable through competent and reliable scientific evidence. The Bureau is empowered to launch formal investigations, issue administrative monetary penalties, and in cases of intentional deception, pursue criminal prosecution. This model highlights the importance of institutional collaboration between regulatory bodies such as the Competition Bureau, Environment and Climate Change Canada (ECCC), and the Canadian Standards Association (CSA) to build a multi-layered compliance infrastructure, something that remains underdeveloped in Indonesia.

In the United States, the primary regulatory tool is the Federal Trade Commission (FTC), which enforces Section 5 of the FTC Act through its Green Guides non-binding but influential interpretive documents. These guides provide detailed standards on terms such as "recyclable," "biodegradable," "carbon offset," and others. While not yet criminalized at the federal level, the FTC has actively prosecuted high-profile cases against corporations like Volkswagen and Walmart for misleading environmental advertising. The FTC's assertive stance reflects a broader regulatory trend toward more aggressive accountability, as well as growing discourse among U.S. lawmakers and scholars about introducing statutory provisions that would codify greenwashing as a criminal offense. Such a dual emphasis on deterrence and transparency offers a valuable model for Indonesian regulatory reform.

Australia offers a particularly relevant hybrid enforcement model through the Australian Competition and Consumer Commission (ACCC) under the Australian Consumer Law (ACL). The ACCC enforces prohibitions

on misleading or deceptive environmental claims by issuing infringement notices, initiating Federal Court proceedings, and when appropriate pursuing criminal charges. In 2022, the ACCC conducted an internet sweep of 247 companies in sectors such as cosmetics, fashion, and food, identifying numerous misleading claims. The agency also publishes guidance materials and collaborates with industry associations to raise compliance standards, particularly among small and medium enterprises (SMEs). This multi-pronged approach combining enforcement, education, and proactive surveillance offers a comprehensive model for Indonesia, where regulatory capacity is often challenged by resource constraints and jurisdictional overlap.

From these comparative insights, Indonesia has the opportunity to develop a national legal framework that explicitly criminalizes greenwashing as a distinct environmental offense. This would require codifying a specific offense within environmental or corporate law that defines the elements of the act, outlines corporate criminal liability, and establishes thresholds for scientific substantiation. In addition, enforcement capacity must be strengthened through inter-agency coordination particularly among the Ministry of Environment and Forestry, National Consumer Protection Agency, Financial Services Authority (OJK), and other stakeholders responsible for regulating transparency, sustainability, and market conduct. Such a reform would not only enhance legal coherence but also signal a shift in Indonesia's commitment to ecological governance, consumer rights, and corporate accountability in the era of global green transition.

VII. CONCLUSION

Greenwashing has evolved into a systematic method used by corporations to manipulate environmental information for economic gain, evade legal accountability, and project a false image of sustainability. This practice undermines consumer trust, delays the transition toward genuine sustainable development, weakens environmental governance, and exacerbates ecological injustice, especially for vulnerable communities. In Indonesia, existing legal frameworks such as the Consumer Protection Law and the Environmental Protection and Management Law (PPLH) do not

explicitly address greenwashing as a distinct criminal offense, resulting in weak, fragmented, and ineffective enforcement. Administrative and civil approaches have proven insufficient to tackle large-scale corporate deception, highlighting the need for a more robust criminal law response. Criminalizing greenwashing should be part of a broader reform of environmental criminal law rooted in ecological justice and corporate accountability. This offense must be defined as the intentional or grossly negligent dissemination of false or misleading environmental claims for profit or to avoid responsibility. Legal liability should extend to corporations, individual executives, and third parties such as advertising agencies. Sanctions may include substantial fines, bans on environmental marketing, public retractions, and imprisonment in severe cases. Countries such as the European Union, France, Germany, Canada, and Australia have already implemented similar models, and Indonesia must not fall behind. Recognizing greenwashing as a crime is not merely about punishment it affirms that sustainability is a legal and moral obligation, not a branding strategy.

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