

THE SUPPLIER'S SOCIO-ENVIRONMENTAL RESPONSIBILITY IN THE FACE OF THE PRACTICE OF GREENWASHING

A RESPONSABILIDADE SOCIOAMBIENTAL DO FORNECEDOR FRENTE À PRÁTICA DA MAQUIAGEM AMBIENTAL

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Autor:

Markus Samuel Leite Norat^[1]

ABSTRACT: This research aims to analyze the socio-environmental responsibility of suppliers in the face of greenwashing, a phenomenon also known in Brazil as environmental makeup or greenwashing, which translates into mechanisms used to try to confer an ecologically responsible and sustainable characteristic to a product or even to the image of a company, whether through advertising, labels, information provided to the consumer, or certificates lacking sound technical basis. It starts from the premise that socio-environmental

responsibility is not merely a discursive attribute of market convenience, but a legal duty arising from the social function of economic activity, articulated by the constitutional order, the Consumer Protection Code, and related environmental legislation. Initially, the relationship between consumer society, the paradigm of sustainable development, and the construction of the supplier's socio-environmental function is examined. Subsequently, the emergence of the green consumer and the way in which the discourse of socio-environmental responsibility is manipulated by the practice of environmental makeup are investigated. This study also analyzes the constitutional and infraconstitutional foundations that support the enforceability of such responsibility, highlighting articles 225 and 170, item VI, of the Federal Constitution, and the National Policy on Consumer Relations and the Basic Consumer Rights provided for in the Consumer Protection Code. Finally, it examines the instruments of objective and joint civil liability, as well as the mechanisms of administrative and criminal liability applicable to the infringing supplier. The hypothetical-deductive method is adopted, through a survey of relevant legislation and bibliographic review. It concludes that the Brazilian legal system already has sufficient normative instruments to demand and hold the supplier accountable for observing socio-environmental responsibility, with the main challenge residing not in the absence of specific legislation on the subject, but in the effective monitoring and application of existing provisions.

Keywords: Social and environmental responsibility. Greenwashing. Supplier. Consumer Protection Code. Sustainable consumption.

RESUMO: A presente pesquisa tem por objeto a análise da responsabilidade socioambiental do fornecedor frente à prática do greenwashing, fenômeno que, no Brasil, também é tratado pelas expressões maquiagem ambiental ou maquiagem verde, e que se traduz em mecanismos utilizados para tentar conferir uma característica ecologicamente responsável e sustentável a algum produto ou mesmo à imagem de uma empresa, seja por meio de anúncios publicitários, seja por meio de rótulos, informações prestadas ao consumidor ou certificados desprovidos de lastro técnico idôneo. Parte-se da premissa de que a

responsabilidade socioambiental não constitui mero atributo discursivo de conveniência mercadológica, mas dever jurídico que decorre da função social da atividade econômica, articulado pela ordem constitucional, pelo Código de Defesa do Consumidor e pela legislação ambiental correlata. Examina-se, inicialmente, a relação entre a sociedade de consumo, o paradigma do desenvolvimento sustentável e a construção da função socioambiental do fornecedor. Investiga-se, na sequência, o surgimento do consumidor verde e a maneira pela qual o discurso de responsabilidade socioambiental é manipulado pela prática da maquiagem ambiental. Analisam-se, ainda, os fundamentos constitucionais e infraconstitucionais que sustentam a exigibilidade de tal responsabilidade, com destaque para os artigos 225 e 170, inciso VI, da Constituição Federal, e para a Política Nacional das Relações de Consumo e os Direitos Básicos do Consumidor previstos no Código de Defesa do Consumidor. Por fim, examinam-se os instrumentos de responsabilização civil objetiva e solidária, bem como os mecanismos de responsabilização administrativa e penal aplicáveis ao fornecedor infrator. Adota-se o método hipotético-dedutivo, mediante levantamento das legislações pertinentes e revisão bibliográfica. Conclui-se que o ordenamento jurídico brasileiro já dispõe de instrumentos normativos suficientes para exigir e responsabilizar o fornecedor pela observância da responsabilidade socioambiental, residindo o principal desafio não na ausência de legislação específica sobre o tema, mas na efetiva fiscalização e aplicação dos dispositivos já existentes.

Palavras-chave: Responsabilidade Socioambiental. Greenwashing. Fornecedor. Código de Defesa do Consumidor. Consumo Sustentável.

1 INTRODUCTION

The Industrial Revolution led to the development and consolidation of a strong industrialization process, which, in turn, caused a true depersonalization of the commercial transaction established between a consumer and a producer. This circumstance allowed for easy and increasing manipulation of the consumer by the supplier. Indeed, the supplier,

possessing the knowledge and mechanisms of production, as well as advanced persuasion techniques, managed to determine how consumer relations would be established and even discovered that, through the use of marketing and advertising practices, it would be possible to create a veritable army of “impulse consumers,” eager to satisfy their “programmed needs” for new products.

This logic of production and consumption, sustained for decades without any relevant concern for the planet’s material limits, has resulted in a very high price to be paid by future generations; and today our society is already suffering from these consequences, with an excessively high consumption model, extreme environmental degradation, and intense deterioration of social values. These consequences are motivating a different sentiment among consumers at the beginning of the 21st century, which is the appreciation of products and services from companies with ethical and responsible stances regarding sustainable consumption movements and the socio-environmental issue as a whole.

It is precisely within this context of growing social demand for responsible business practices that the subject of this article is situated: the socio-environmental responsibility of the supplier, understood not as a mere discursive attribute of market convenience, but as a legal duty arising from the very social function of economic activity, articulated both by the constitutional order and by consumer and environmental legislation. It is undeniable that socio-environmental responsibility, when genuinely incorporated into business culture, represents a significant advance in reconciling free enterprise and the protection of an ecologically balanced environment. However, alongside this legitimate movement, its distortion also flourished: it did not take long for the ecological appeal to spread throughout the most varied markets, disseminating, through very well-crafted advertisements, the production cycle, the activities involved, the distribution method, the marketing, or any other business aspect that could be perceived as environmentally correct; But, in addition, abuses in the consumer market also began to emerge, as some suppliers manipulated information, including incomplete, incorrect, or even outright false data on labels or advertisements, with

the intention of conveying to the consumer the perception that their brand or product is environmentally friendly or that it comes from sustainable production processes, leading consumers to believe that they are purchasing products that do not contribute to environmental degradation, or at least that have a smaller impact, when in reality they are being deceived.

The aforementioned practice, which consists of attempting to deceive consumers by leading them to mistakenly believe that the institution and the products and services offered are ecologically efficient, sustainable, and environmentally responsible, is currently called greenwashing, a term that, in Brazil, is also referred to as environmental makeup or greenwashing. Essentially, it is the pathological reverse of socio-environmental responsibility: while the latter presupposes a real transformation of productive practices, the former is content to construct an image of responsibility dissociated from any corresponding factual basis, taking advantage of the trust that the market has placed in the discourse of corporate sustainability to extract undue competitive advantage.

Greenwashing practices involve a frontal attack on fundamental regulations such as the Consumer Protection Code, the Policy on Education for Sustainable Consumption, the National Solid Waste Policy, the Brazilian Code of Advertising Self-Regulation of the National Council for Advertising Self-Regulation, and even technical rules such as ABNT ISO 14021 of 2017. Given this multifaceted regulatory framework, it is necessary to investigate whether and to what extent these legal instruments provide sufficient legal weight to the supplier's duty of socio-environmental responsibility, to the point of allowing its concrete enforceability and the accountability of those who use it merely as an advertising ploy.

The central research problem that underpins and will be discussed in this article can be formulated as follows: to what extent is the socio-environmental responsibility of the supplier, as a legal category derived from the Brazilian constitutional and infraconstitutional system, capable of justifying the liability of those who, under the pretext of sustainable practices,

engage in environmental deception, and how prepared is Brazilian legislation to address such practices, in order to prevent and mitigate the occurrence of harm to consumers and the ecologically balanced environment? The hypothesis is that socio-environmental responsibility, far from being a mere ethical exhortation devoid of legal consequence, is incorporated into the national legal system as a true legal duty, the non-compliance with which, in the form of advertising deception, is subject to civil, administrative and, in more serious cases, criminal liability.

To develop this proposal, this article is structured as follows: initially, it examines the relationship between consumer society, the paradigm of sustainable development, and the construction of the supplier's socio-environmental function; then, it analyzes the phenomenon of the green consumer and the way in which the discourse of socio-environmental responsibility is manipulated by the practice of greenwashing; subsequently, it investigates the legal, constitutional, and infra-constitutional foundations of the supplier's socio-environmental responsibility; finally, it discusses the mechanisms of civil, administrative, and criminal liability applicable to the supplier who, out of step with these foundations, disguises their business activity under a false ecological veneer.

2. CONSUMER SOCIETY, SUSTAINABLE DEVELOPMENT AND THE SOCIO-ENVIRONMENTAL ROLE OF THE SUPPLIER

2.1 From the consumer society to the paradigm of sustainable development

The mass consumer society, structured in the post-World War II period, consolidated consumption not only as a subsistence necessity but as a way of life itself, transforming the purchase and use of goods into rituals in which the spiritual and ego satisfaction of the population began to be sought through the very act of consuming. As I have already had the opportunity to highlight in another work, this process, designed to boost the economy, gave rise to a category of "impulse consumers," whose behavior is shaped by market pressures to

consume, destroy, replace, and discard things at an ever-increasing rate. This is a deliberately constructed social arrangement, not a natural and spontaneous tendency of human behavior, in which the individual is reconstructed, from the market's perspective, as a subject in a permanent state of dissatisfaction, always available to acquire a new good capable of fulfilling a need recently manufactured by the advertising machine itself.

This social configuration, however, runs up against irrefutable physical limits, which the very pace of consumption expansion insists on ignoring. Natural resources, contrary to the consumerist appetite that sustains this economic model, are not inexhaustible, and the intensive and continuous exploitation of these resources, without any relevant concern for their replenishment capacity, has produced, over decades, a very high price to be paid by future generations. It is precisely in this context that our society, at the beginning of this 21st century, has begun to suffer the consequences of an excessively high consumption model, marked by extreme environmental degradation and the intense deterioration of social values.

It was in this context of crisis that the paradigm of sustainable development was consolidated internationally, its most widespread formulation dating back to the Brundtland Report, prepared in 1987 by the World Commission on Environment and Development. According to this formulation, sustainable development imposes the need to meet the needs of the present without compromising the ability of future generations to meet their own needs, linking the concept not only to the environmental dimension, but also to social equity and the maintenance of the Earth's own regenerative capacity. It is not, therefore, an exclusively ecological concept, focused on the mere preservation of species or ecosystems considered in isolation, but a concept that articulates, in an inseparable way, the environmental, social, and economic dimensions of human development.

The understanding that natural resources are finite constitutes, therefore, the logical and material premise for a country's development to cease being measured exclusively by its economic growth, as measured by indicators such as gross domestic product, and to also be

evaluated by the effective improvement in the quality of human life, always respecting the capacities and limits of an ecologically balanced environment. In the Brazilian legal system, this requirement is not merely a public policy guideline devoid of normative force, but is expressly enshrined in Article 225 of the 1988 Federal Constitution, which imposes on the Public Authorities and the community the duty to defend and preserve the environment for present and future generations, elevating environmental protection to the status of a fundamental right of the third dimension, with diffuse and transindividual ownership.

It is within this constitutional and principled framework that the economic activity developed by the supplier in the consumer market must be understood. If sustainable development requires compatibility between economic growth, social equity, and environmental preservation, it is not possible to conceive of free enterprise, guaranteed by Article 170 of the Federal Constitution, as an absolute value detached from such guidelines. On the contrary, the constitutional economic order itself conditions the exercise of productive activity to the observance of environmental protection, including through differentiated treatment according to the environmental impact of products and services and their production and delivery processes, as provided for in item VI of the aforementioned Article 170. It is from this constitutional conditioning that the socio-environmental function of the supplier emerges, as will be examined below.

2.2 Social and environmental responsibility as a legal duty of the supplier

The new consumer behavior, which seeks to balance quality of life with environmental protection, imposes a new strategic posture on suppliers, one that can no longer be limited to the traditional attributes of price, quality, and durability of the products and services offered. In this context, socio-environmental responsibility ceases to be a voluntary act of corporate charity, an isolated philanthropic gesture aimed at garnering public sympathy, and becomes a legal duty that transcends consumer relations and is directly based on the National Consumer Relations Policy, governed by Article 4 of the Consumer Protection Code.

Therefore, it is not a matter of demanding from the supplier a benevolent stance that exceeds the limits of their legal obligation, but of recognizing that the very structure of the consumer protection system, by identifying the factual and informational vulnerability of the consumer, requires that the supplier act governed by objective good faith, a fundamental principle of all consumer legal relations. This requirement imposes transparency not only regarding the price or durability of the product, issues traditionally regulated by consumer law since its origin, but also, and with increasing intensity, regarding the socio-environmental impacts of their products and services, considered throughout the entire production cycle, from the extraction of raw materials to final disposal.

It turns out that, as I have already had the opportunity to examine in detail, when a supplier uses techniques to create a false image of sustainability, a practice that has become known as greenwashing, it directly violates the basic consumer rights provided for in Article 6 of the Consumer Protection Code, notably the right to adequate and clear information and protection against misleading advertising. This is not a case of simple isolated commercial dishonesty, but a very serious functional deviation, insofar as the supplier improperly appropriates the very discourse of socio-environmental responsibility, constructed precisely to guide and protect the consumer, and transforms it into an instrument for manipulating their will to consume.

The socio-environmental responsibility of the supplier, it must be emphasized, is not limited to the formal compliance with specific regulatory standards, taken in isolation from one another; it requires the integration of sustainability throughout the product's life cycle, from its conception to its final disposal after consumer use. As established by the National Solid Waste Policy, instituted by Law No. 12,305 of 2010, the supplier shares responsibility for the product's life cycle, which implies the duty to avoid waste, promote the eco-efficiency of production processes, and provide truthful data that does not mislead the consumer regarding the real environmental characteristics of what is being offered. In this sense, shared responsibility does not fall exclusively on the initial manufacturer, but extends, in an

articulated manner, to importers, distributors, retailers, consumers, and holders of public urban cleaning and solid waste management services, each responding to the extent of their participation in the production and consumption cycle of the good.

It is precisely at this point that the legal gravity of environmental manipulation becomes evident. In the Brazilian legal system, a supplier who omits relevant data or disseminates false information about their environmental performance does not commit a mere administrative infraction of a technical or bureaucratic nature, devoid of greater evaluative gravity; rather, they are attacking the very dignity of the consumer, a subject of rights whose capacity for free and conscious choice is directly manipulated, and simultaneously, the right of the entire community to a healthy and ecologically balanced environment. Therefore, a double harm emerges from the practice of greenwashing when analyzed from the perspective of socio-environmental responsibility: on the one hand, the individual harm to the consumer, deceived in their legitimate trust; on the other hand, the diffuse and transindividual harm to the environment and the community, which is deprived of the social and market pressure that, under normal circumstances, would tend to encourage suppliers to effectively improve their production practices.

It is thus evident that the socio-environmental responsibility of the supplier is not a category with merely ethical or reputational contours, devoid of concrete legal enforceability. On the contrary, it is densely incorporated into the Brazilian normative system, articulating itself between the constitutional mandate of environmental protection, the principles of objective good faith and consumer vulnerability foreseen in the Consumer Protection Code, and the regime of shared responsibility for the product life cycle established by legislation on solid waste. It is from this threefold normative basis, examined systematically and not in a fragmented manner, that it becomes possible to legally justify the liability of the supplier who, under the pretext of sustainable practices, actually engages in environmental manipulation.

3. The Green Consumer and the Manipulation of the Discourse of Socio-Environmental Responsibility

3.1 Green marketing and the emergence of the green consumer

As previously discussed, mass consumer society readily embraced the idea of social advancement through the consumption of fashionable products, attempting to emulate what one appears to be. This desire was instilled in people through advertising that increasingly promoted the idea of transforming the process of purchasing goods into rituals and personal satisfaction. This arrangement, deliberately constructed over decades to sustain the uninterrupted growth of industrial production, nevertheless encountered a limit that the very rhythm of consumption insisted on ignoring: natural resources, contrary to consumerist appetite, are not inexhaustible.

The natural consequences of rampant consumerism are fostering a different sentiment among consumers, who, since the beginning of the 21st century, have begun to value products and services from companies that demonstrate ethical and responsible stances regarding socio-environmental issues. These consumers, whom we can call green consumers, have adopted a new consumption pattern: green consumption. As defined by Consumers International, the Ministry of the Environment, the Ministry of Education, and the Brazilian Institute for Consumer Protection, this type of consumption occurs when consumers, in addition to seeking products and services of the highest quality and best price, add environmental variables to their selection process, thus giving preference to products and services that do not cause environmental degradation during their production, distribution, consumption, and final disposal processes.

It should be noted from the outset that this definition is not satisfied with a mere one-off preference for a particular product identified as sustainable; it requires the incorporation of a cross-cutting environmental criterion that permeates the entire life cycle of the good, from

production to disposal, as a constitutive element of the purchase decision. It is precisely this broader requirement, which imposes on the supplier the demonstration of socio-environmental commitment at all stages of its production chain, and not just in an isolated and convenient aspect, that will open space, as will be seen later, for the manipulation of the good faith of this new consumer profile.

Recognizing the shift in the consumer market towards this new wave of green and sustainable consumption, many large, far-reaching companies saw these consumer desires as a real business opportunity. This led them to modify their strategic visions, instituting actions that were often not even foreseen in our legislation, with the intention of projecting to the public the image that the company is committed to the satisfaction, well-being, and quality of life of its customers, employees, society in general, and, above all, to the preservation of forests and seas. This observation is revealing: the corporate response to the emergence of the green consumer did not, as a rule, stem from a spontaneous reformulation of corporate ecological awareness, but from a strategic market calculation, attentive to the profitability that the new consumer niche represented.

It is in this context that Green Marketing, also called Ecological Marketing, is consolidated, understood as an activity designed to provoke and facilitate any correspondence, with the objective of meeting human needs with the minimum use of environmental resources. Through it, one party provides goods, services, or ideas that the other party needs, maintaining environmental protection and contributing to sustainable development. In its original conception, therefore, green marketing should not be understood as a persuasive artifice dissociated from the productive reality of the company, but as the legitimate communication of transformations effectively implemented in the production chain, capable of reducing the environmental impact of the manufacturing, distribution, and disposal process of products offered to the market.

It turns out that the gap between this idealized conception of ecological marketing and its

practical application has proven to be considerably wide over the years. On the one hand, there are suppliers who have effectively revamped their production processes to meet the demands of the green consumer, using ecological marketing only as a legitimate instrument for communicating a real transformation. On the other hand, there has been a proliferation of those who have realized that it is more economical, and infinitely faster, to simulate such a transformation than to actually promote it. It is precisely in this space, created by the asymmetry between the ecological discourse publicly adopted by the supplier and the effective change in their production practices, that the manipulation of the green consumer flourishes, a topic I will examine in the following section.

3.2 Environmental makeup as a distortion of social and environmental responsibility

The term “greenwashing” is a foreign word, originating from the English language, which, if translated literally into Portuguese, would correspond to “greenwashing.” According to scholars on the subject, the word was first used in 1986 by the American environmentalist Jay Westerveld, when criticizing the practice of hotels that asked guests to reuse towels under the pretext of environmental protection, when, in reality, such a measure aimed primarily at reducing operational laundry costs, without any consistent sustainability program on the part of these establishments to justify the ecological appeal directed at the guest.

Currently, the most appropriate translation for the expression “greenwashing” is “environmental marketing makeup,” “green marketing makeup,” or simply “greenwashing,” which, according to the TerraChoice Environmental Marketing Inc. Institute, means using words, symbols, or images to try to employ an environmentally correct concept, image, or opinion about a particular product, service, or company, without there actually being a true environmental commitment. Even in this initial definition, the essential core of the phenomenon is evident: the deliberate creation of a dissonance between the projected image and the factual reality of the production process, a dissonance that is only sustained to the extent that the consumer lacks the means to verify it.

Greenwashing, therefore, translates into mechanisms used to try to give an environmentally responsible and sustainable characteristic to a product or even to a company's image, a practice generally carried out through advertising. It is important to emphasize, however, that greenwashing conduct does not only occur through advertising, but also through labels, information provided to the consumer, and even through certificates and seals, often lacking any proper technical audit to support them. This multiplicity of vehicles through which environmental manipulation manifests itself is, in fact, one of the factors that makes it difficult to combat, as it requires the inspection system to pay simultaneous attention to different areas of activity of the offending supplier.

The seriousness of environmental manipulation, when analyzed from the perspective of the supplier's socio-environmental responsibility, is not limited to the mere falsity of the claim considered in isolation. It lies, above all, in the fact that greenwashing appropriates the very vocabulary and symbolism that should serve to identify a genuinely committed supplier, emptying them of meaning and thus corrupting the market's ability to distinguish authentic socio-environmental responsibility from that which is merely simulated. When an unscrupulous supplier achieves commercial success through greenwashing, without bearing the real costs of redesigning its production processes, it not only deceives the individual consumer but also indirectly harms those competitors who have genuinely invested in sustainability, who then compete on unequal terms with those who only simulate such a commitment at a much lower cost.

A landmark study on environmental claims included on product labels, conducted in 2007 and 2008 by the TerraChoice Environmental Marketing Inc. Institute, with the purpose of identifying which marketing practices effectively corresponded to greenwashing, found that the practice of greenwashing was extremely frequent in seven types of conduct, cataloged and identified in the study as "the seven sins of greenwashing." These sins, which I have already examined in detail elsewhere in this work, demonstrate that the distortion of socio-environmental responsibility does not, as a rule, occur through blatant and easily identifiable

lies, but through subtle strategies of selection, generalization, and distortion of information, against which the average consumer, lacking specialized technical knowledge, can hardly defend themselves alone.

This is precisely why environmental greenwashing should be understood not as an isolated episode of commercial bad faith, treatable exclusively through traditional means of repressing misleading advertising, but as a phenomenon that strikes at the very core of socio-environmental responsibility as a legal category. By distorting the discourse of sustainability, greenwashing undermines the credibility of all socio-environmental communication practiced in the market, generating a perverse side effect even on reputable suppliers, whose truthful claims are met with increasing distrust by consumers, precisely as greenwashing proliferates without due legal repression. Thus, a vicious cycle is created: the more unpunished the practice of greenwashing remains, the greater the consumer skepticism becomes regarding any environmental claim, which, paradoxically, also discourages genuinely committed suppliers from investing in transparent communication of their real socio-environmental advances, fearing being confused with those who merely mask their business activities.

It is against this backdrop that it becomes necessary to examine, in the following sections of this article, the legal, constitutional, and infraconstitutional foundations that support the enforceability of the supplier's socio-environmental responsibility in the Brazilian legal system, in order to demonstrate that such responsibility is not a mere ethical aspiration, but a legal duty subject to concrete enforcement and liability when breached in the form of fraudulent advertising.

4. LEGAL FOUNDATIONS OF SUPPLIER SOCIAL AND ENVIRONMENTAL RESPONSIBILITY

4.1 Constitutional protection of the environment and the consumer

The National Constituent Assembly that worked on drafting the 1988 Federal Constitution

gave the issue of protecting and defending consumer rights the necessary dimension and importance, enabling the effective development of consumer protection in our country. This is an area of law that assigns the appropriate axiological parameters from the perspective of human, economic, and social rights, and that mandates the State to promote instruments to ensure the protection of consumer rights.

The protection and defense of consumer needs and interests is a matter enshrined in the 1988 Constitution as a fundamental right, since Article 5, item XXXII, prescribes that the State must promote, as provided by law, the defense of the consumer. In other words, consumer protection, being a fundamental right, forms the basis upon which the Brazilian legal system is founded, so that no interpretation that relegates it to a mere sectoral or corporate interest, devoid of binding normative force, is admissible.

Nevertheless, any analysis that limited itself to examining consumer protection in isolation, without articulating it with the constitutional protection afforded to the environment, would be incomplete. The defense of the environment and the protection of consumer interests received particularly contemporary and comprehensive treatment in the text of the 1988 Constitution, which, through multiple provisions, seeks to achieve harmony between these principles. On the one hand, it deals with economic and social development, and on the other, with ecological balance and the maintenance of environmental quality as a way to maintain a dignified life for humankind. Article 225 of the Federal Constitution, by imposing on everyone—public authorities and the community—the duty to defend and preserve an ecologically balanced environment for present and future generations, is not presented as an isolated and static precept, but as a norm that communicates directly with Article 170, item VI, of the same constitutional text, which conditions the economic order on the observance of environmental protection, including through differentiated treatment according to the environmental impact of products and services and their production and delivery processes.

The joint analysis of these fundamental principles allows for the reconciliation of values with

a balance in the extraction of natural resources, in accordance with the finite limitations of nature, and with the satisfaction of economic and social needs, in order to preserve future generations. Thus, the close relationship between the protection and defense of consumer rights, environmental protection, and economic activities is demonstrated, making it impossible, therefore, to understand free enterprise as an autonomous value detached from the other constitutional guidelines that comprise the system.

According to GARCIA (2016), the Constitution itself harmonizes its provisions to enable the interrelation of principles, in order to guarantee what can be called a sustainable consumer market, which must be preserved and defended not only by the State, but also by consumers and suppliers. It is important to emphasize that, when discussing the defense of an ecologically natural and balanced environment, we are not only talking about protecting natural resources, restoring degraded areas, or preserving water, air, fauna, and flora; ultimately, as Fiorillo and Rodrigues (1996) teach, what is actually achieved is the salvation of the economic system itself. This observation is extremely relevant to the subject of this article, as it shows that the socio-environmental responsibility of the supplier is not an external and onerous requirement arbitrarily imposed on business activity, but a condition for the survival of the productive system itself in the medium and long term, insofar as the exhaustion of natural resources inevitably compromises the continuity of the economic chain that uses them.

It is from this constitutional framework, which inextricably links consumer protection, environmental protection, and the exercise of economic activity, that it becomes possible to legally justify the requirement that the supplier act in a socio-environmentally responsible manner, and not merely appear to do so. When a supplier engages in environmental manipulation, they not only violate an isolated consumer protection norm, but also break with this entire system of constitutional harmonization between the economy, consumption, and the environment, insofar as they pretend to observe requirements that, in reality, they systematically ignore in their concrete productive activity.

4.2 Social and environmental responsibility in the National Policy on Consumer Relations and Basic Consumer Rights

Moving from the constitutional to the sub-constitutional level, it is necessary to examine how the Consumer Protection Code operationalizes, in its specific norms, the requirement of socio-environmental responsibility of the supplier. The National Policy on Consumer Relations translates as a huge backbone of Brazilian consumer law, since it establishes the guidelines, objectives, principles, and fundamental general mechanisms that need to be used in the application of all the regulations included in the Consumer Protection Code. The objectives and principles listed in the National Policy on Consumer Relations are true Human Rights norms, as they are in line with the fundamental rights and guarantees listed in Article 5 of the Federal Constitution of Brazil.

It is precisely because of this understanding, and because it recognizes that consumers face imbalances in terms of economics, bargaining power, and educational levels, as well as with the intention of fostering fair and equitable economic and social development, that the National Consumer Relations Policy presents as its objectives the fulfillment of consumer needs, respect for their dignity, health and safety, the protection of their economic interests, the improvement of their quality of life, and the transparency and harmony of consumer relations. Therefore, this is not a list of merely rhetorical objectives or devoid of practical consequence, but guidelines that bind all interpretation and application of consumer protection laws, including those relating to environmental claims made by suppliers in the consumer market.

Within this protective microsystem, the Principle of Recognizing Consumer Vulnerability in the consumer market justifies the reason why this protection microsystem was conceived, and explains the existence of the Consumer Protection Code itself, which attempts to provide unequal treatment to people who are clearly unequal. It is important to emphasize that, regarding sustainable consumption in the Brazilian Consumer Protection Code, which is a law

with a social and principled function, and which, consequently, is governed by principles, although the expression “sustainable consumption” does not appear in the original text of the code, it can be found in multiple provisions that address the topic implicitly; this is embedded in the purposes of the Code in multiple aspects, whether economic, market-related, or others.

This finding is of central importance to this article, as it demonstrates that the absence of an express and literal mention of socio-environmental responsibility, or even sustainability, in the original text of the Consumer Protection Code, enacted in 1990, cannot be interpreted as a normative gap that makes it impossible to demand such responsibility from the supplier. On the contrary, a systematic and teleological interpretation of the consumer protection legislation, aligned with the objectives and principles of the National Policy on Consumer Relations, allows us to infer, with sufficient legal certainty, the supplier’s duty to act in an environmentally responsible manner, under penalty of liability.

This requirement finds further reinforcement in the list of basic consumer rights, provided for in Article 6 of the Consumer Protection Code, which should be understood as the minimum rights that consumers have in consumer legal relations. When dealing with the basic right to protection of life, health, and safety against risks caused by practices in the supply of products and services considered dangerous or harmful, provided for in item I of the aforementioned article, the National Policy on Consumer Relations is reinforced, which aims at protecting life, health, and safety, as established in the heading of Article 4. As observed by RIBEIRO (2018), when dealing with this topic we are faced with the most important of all basic consumer rights, since it considers protection of an essential constitutive characteristic of the human condition, where the protection of life and health necessarily depends on environmental health, because the personal integrity of each being presupposes the protection of the environment as an essential locus for life.

From this perspective, the consumerist vector protecting life and health embodies a true

environmental dictate related to guaranteeing a healthy and ecologically viable environment. Conversely, due to the bilateral nature of environmental citizenship, this perception imposes on all agents involved in economic processes, including consumers, the duty to observe the limitations imposed by the principle of sustainability, preventing the environmental impacts of consumption from exceeding the resilience capacity of ecosystems. It is precisely this interpretation, which links the basic right to life and health to the necessary environmental health, that allows us to understand why the supplier's failure to fulfill its socio-environmental responsibility, in the form of environmental manipulation, does not constitute a merely formal or procedural infraction, but a substantial violation of one of the most fundamental pillars of the entire consumer protection system.

In addition to this basic right to life, health, and safety, the already examined right to adequate and clear information, provided for in item III of the same article 6, and the right to education and dissemination about the proper consumption of products and services, provided for in item II, form a normative tripod from which the legal enforceability of the supplier's socio-environmental responsibility can be safely derived. It is not, therefore, a single isolated provision supporting this requirement, but an articulated and coherent set of norms which, interpreted systematically in light of the objectives of the National Consumer Relations Policy and the constitutional mandate for environmental protection, provide sufficient legal weight to justify the liability of the supplier who, through the practice of greenwashing, fails to comply with this fundamental duty—a matter that will be developed in the following section of this article, specifically dedicated to the mechanisms of civil, administrative, and criminal liability applicable to such conduct.

5. Supplier Liability for Greenwashing Practices

Having established the legal foundations that support the enforceability of the supplier's socio-environmental responsibility, both at the constitutional and infra-constitutional levels, it remains to examine how the Brazilian legal system structures the mechanisms for holding

accountable those who, failing to fulfill this duty, use environmental manipulation as a means of market differentiation. It is not enough to recognize, in the abstract, that socio-environmental responsibility constitutes a legal category with enforceability; it is necessary to demonstrate, with technical precision, how such enforceability translates into concrete legal consequences in the civil, administrative, and criminal spheres, capable of discouraging the repetition of the conduct.

5.1 Objective and joint civil liability for socio-environmental damage

The practice of greenwashing, by deceiving consumers and giving products or institutions a false aura of social and environmental responsibility, is not limited to misinformation or deceptive advertising. It extends to environmental and social damage, requiring the application of a robust civil liability regime capable of discouraging such conduct. Therefore, it is not a matter of reducing environmental manipulation to a purely informational problem, solvable only by correcting the advertising message; rather, it is about recognizing that behind the distorted information lies actual damage, often of a diffuse and transindividual nature, that needs to be remedied.

The Consumer Protection Code, in accordance with Law No. 6,938 of 1981, establishes that the supplier's liability for damages is objective. As explicitly stated in the Consumer Protection Code, products and services placed on the market must be safe and not cause risks that exceed those considered normal and foreseeable. When a supplier, through greenwashing, induces the consumer to purchase a good that, ultimately, harms the ecosystem, it breaches the duty of safety and transparency. In objective civil liability, the supplier is liable regardless of the existence of fault; it is sufficient to ascertain the damage and the causal link between the conduct, the misleading marketing, and the harm suffered by the consumer and the community.

It is important to emphasize that this objective liability regime does not represent an

exception or particularly harsh treatment reserved for the specific case of greenwashing; rather, it corresponds to the general rule that informs the entire system of supplier civil liability within the Brazilian consumer protection microsystem. This rule is justified precisely by the structural vulnerability of the consumer and the almost always insurmountable difficulty of demonstrating the subjective element of the supplier's conduct, especially when this manifests itself through sophisticated communication and marketing strategies, conceived by specialized technical teams precisely to hinder such demonstration.

Furthermore, liability is joint and several among all those who participated in the supply chain. Article 7, sole paragraph, of the Consumer Protection Code stipulates that, if there is more than one author of the offense, all are jointly and severally liable. Thus, advertisers, advertising agencies, and any partners in the greenwashing strategy may be called upon to repair the patrimonial and moral damages, both collective and diffuse, resulting from the practice. This joint and several liability, applied to the specific context of environmental makeup, is of particular practical relevance, insofar as the conception of a greenwashing campaign rarely stems from the isolated initiative of the product manufacturer; on the contrary, it frequently involves advertising agencies responsible for creating the advertising piece, consultancies specializing in brand positioning, and, not infrequently, certification entities that lend their endorsement, even negligently, to seals and emblems lacking proper technical backing.

Compensation should not be limited to the individual damage suffered by the consumer, but should encompass the transindividual sphere, given that greenwashing degrades trust in consumer relations and causes harm to the ecologically balanced environment, a legal right protected by Article 225 of the Federal Constitution. In this regard, civil liability for environmental manipulation can occur both individually, through an action brought by the consumer directly harmed in their patrimonial or moral sphere, and collectively, through a public civil action brought by the Public Prosecutor's Office, consumer protection agencies, or legitimate associations, aimed at protecting the diffuse and collective interests affected by

the practice. The punitive nature of the compensation should be considered, inhibiting the profit obtained from the abusive practice and compensating for the harm to the diffuse rights of consumers.

It cannot be overlooked, at this point, that the underlying economic logic of greenwashing is, as a rule, that the cost of the advertising simulation is significantly lower than the cost of the actual reformulation of production processes. If civil liability is limited to imposing obligations on the infringing supplier that are of a value lower than, or even close to, the economic benefit obtained from the illicit practice, the deterrent effect of the sanction will be compromised, and the environmental manipulation will continue to appear, from a strictly accounting point of view, as an advantageous strategy. It is precisely for this reason that consumer law doctrine advocates the incorporation of a punitive function into compensation for collective moral damages arising from greenwashing, so that the amount awarded serves not only to compensate for the abstract harm, but also to effectively discourage the conduct economically, making it, in practical terms, a loss-making business for the supplier who practices it.

5.2 Administrative and criminal liability as instruments to curb environmental manipulation.

In environmental marketing, greenwashing cannot be seen merely as an ethical-commercial deviation, but as an illegal act that attracts rigorous administrative and criminal sanctions when it materializes in harm to the consumer market and social well-being. State intervention must be exercised through instruments that effectively make greenwashing an unprofitable business for the supplier, reiterating the same economic concern already pointed out regarding civil liability: a sophisticated sanctioning framework is useless in formal terms if, in practice, it is not capable of reversing the cost-benefit equation that guides the business decision to resort to advertising deception.

In the administrative sphere, the Consumer Protection Code, in accordance with its nature as

a microsystem of protection, provides in article 56 a series of sanctions, ranging from fines to the mandatory counter-advertising, provided for in article 60. Among these sanctions, it is also worth mentioning the seizure of the product, the suspension of supply, the temporary suspension of activity, the revocation of concession or permission to use, the cancellation of the establishment's license, and administrative intervention, the gradation of which must take into account the seriousness, recidivism, and extent of the damage caused by the conduct of the offending supplier.

Counter-propaganda plays a fundamental educational role by obliging the supplier to refute, in the same form, frequency, and scope, the false or misleading claims previously disseminated. This sanction directly attacks the core of the greenwashing strategy, which aims precisely to build, through marketing, a fictitious reputation. By being forced to deconstruct this image, the offender suffers the burden of exposure and the due punishment for the deception. It is not, therefore, a mere pecuniary sanction, with an exclusively patrimonial effect and frequently absorbed by the larger supplier without major repercussions on its marketing strategy; it is a sanction that directly affects what greenwashing values most: the reputation and image built before the consumer, forcing its public exposure in the same terms, with the same intensity, and in the same media where the misleading message originally circulated.

In the criminal sphere, the Consumer Protection Code classifies criminal offenses against consumer relations, and the practice of greenwashing can be framed within several provisions. Article 66 prohibits making false or misleading statements, or omitting relevant information about the characteristics, qualities, or safety of products or services. This is a type of crime that precisely fits the scenario where a supplier attributes a non-existent environmental attribute to a particular product, or deliberately omits relevant data about the impact of its production chain, which could alter the consumer's purchasing decision if known.

If advertising, due to being misleading or abusive, is capable of inducing the consumer to behave in a way that is harmful or dangerous to health, the conduct is more severely classified under Article 68. This provision is particularly relevant in cases where greenwashing is not limited to deceiving the consumer regarding an isolated environmental attribute, but effectively induces them to adopt more intense or less discerning consumption behavior, under the false belief that such behavior is being compensated by some non-existent or insufficient ecological advantage.

Beyond these, Article 69 penalizes those who fail to organize factual, technical, and scientific data that support advertising. This rule is central: a supplier who does not possess scientific proof of their environmentally responsible claims, but still proceeds with the dissemination, incurs a crime of omission. Here, we see a relevant convergence with the already examined principle of the burden of proof, provided for in Article 38 of the Consumer Protection Code: if, in civil and administrative matters, it is up to the supplier to prove the veracity of their environmental claims whenever requested to do so by the competent authority, in criminal matters, the prior absence of organization and availability of such technical data, in itself, already constitutes typical conduct, regardless of any subsequent and hasty proof of the veracity of the claim.

The monitoring of these infractions should not be treated as mere bureaucracy, but as a state duty to ensure that environmental seals, labels, and certificates maintain their seriousness, preventing marketing techniques from leading to the criminalization of consumer relations. This observation, which I have already had the opportunity to record, deserves to be reiterated in these final lines as a synthesis of the entire examination undertaken in this section: holding the supplier accountable for the practice of greenwashing, whether in the civil, administrative, or criminal spheres, is not an end in itself, aimed at merely punishing the offender, but an instrument aimed at preserving the credibility of the entire socio-environmental communication system in the consumer market, a system that only fulfills its legitimate function when the seals, labels, certificates, and advertising claims actually

correspond to what they effectively represent.

It is therefore clear that the Brazilian legal system does not lack instruments capable of holding suppliers accountable for environmental manipulation, possessing a regime of objective and joint civil liability, administrative sanctioning mechanisms of a pedagogical and reparative nature, and specific criminal offenses applicable to the most serious conduct. As already mentioned in the introduction to this article and as will be revisited in its concluding remarks, the question remains whether this normative framework has been effectively mobilized in practice with the intensity that the dissemination of the phenomenon demands.

6. FINAL CONSIDERATIONS

This article presented a study on greenwashing, which in Brazil is also referred to as environmental makeup or greenwashing, and on the socio-environmental responsibility of suppliers who are directly attacked by this practice. The conduct analyzed is a legal, ethical, and behavioral problem that occurs in the consumer market, impacts the protection of consumer rights, and directly affects the depletion of environmental resources, thus impacting the balance of the environment.

From the analysis conducted, it was found that the socio-environmental responsibility of the supplier is not a category with merely ethical or reputational contours, devoid of concrete legal enforceability, but a duty that is densely incorporated into the Brazilian normative system, articulating itself between the constitutional mandate of environmental protection, provided for in articles 225 and 170, item VI, of the Federal Constitution, the principles of objective good faith and consumer vulnerability enshrined in the Consumer Protection Code, and the regime of shared responsibility for the life cycle of products established by the National Solid Waste Policy. Furthermore, it was demonstrated that the emergence of the green consumer, far from representing merely a spontaneous movement of mature ecological awareness, was quickly absorbed by market structures as a lucrative niche, a

circumstance that opened space for the discourse of socio-environmental responsibility to be manipulated through environmental manipulation, directly distorting what should represent a genuine commitment to sustainability.

The issue is that no legislation in our country presents any specific norm to combat the practice of environmental manipulation. Due to this situation, on November 22, 2012, Bill No. 4,752 was presented by Deputy Márcio Macêdo, of the Workers' Party of Sergipe, with the intention of obligating organizations and companies that use advertising about the environmental sustainability of their products or services to explain it through product labels and advertising material, determining that the practice of greenwashing is subject to the sanctions foreseen in the Environmental Crimes Law, Law No. 9,605 of 1998. The Constitution, Justice and Citizenship Committee voted against it, as did the Consumer Law Committee, pointing out ambiguity in the concept of greenwashing, and that the topic was very similar to misleading advertising, already addressed by article 37 of the Consumer Protection Code.

Bill No. 4,752 of 2012 was ultimately shelved because, although there is no provision in the Brazilian legal system that expressly uses the term "greenwashing," "environmental makeup," or any term directly alluding to the translation of the meaning of the foreign word "greenwashing," current Brazilian legislation already contemplates the harmful aspects arising from this practice. Therefore, we have provisions in multiple normative texts that encompass all seven behaviors listed by the TerraChoice Environmental Marketing Inc. Institute as the cardinal sins driving the practice of greenwashing, such as the 1988 Constitution of the Federative Republic of Brazil, the Consumer Protection Code, and the Brazilian Code of Advertising Self-Regulation of the National Council for Advertising Self-Regulation (CONAR).

This article has demonstrated that this normative framework provides sufficient legal basis to support the civil, administrative, and criminal liability of suppliers who, under the guise of

sustainable practices, engage in environmental deception. In civil law, the application of a regime of objective and joint liability among all those involved in the production and dissemination of the misleading message was evidenced, a regime capable of addressing both the individual damage suffered by the consumer and the transindividual damage caused to the community and the ecologically balanced environment. In administrative law, the sanctions provided for in Articles 56 and 60 of the Consumer Protection Code were examined, with particular emphasis on counter-advertising, whose pedagogical and reparative character directly affects the reputation that the supplier illegitimately attempted to build. In criminal law, it was found that articles 66, 68 and 69 of the same legal instrument are fully applicable to the most serious environmental fraud offenses, particularly those in which the supplier lacks the technical and scientific data to support its ecological claims.

Therefore, it is concluded that, for the correct treatment of the practices analyzed in this work, it is not necessary to create new legislative instruments, but only to enforce compliance and monitoring of the conduct that constitutes the practice of environmental manipulation. Returning to the research problem formulated in the introduction of this article, the hypothesis is confirmed that socio-environmental responsibility, far from being a mere ethical exhortation devoid of legal consequence, is incorporated into the national legal system as a true legal duty, the non-compliance of which, in the form of advertising simulation, is subject to liability in the civil, administrative and criminal spheres.

In light of all that has been presented, it is understood that the effective fight against greenwashing in Brazil depends primarily not on expanding the existing legislative framework, but on strengthening the oversight role of consumer protection agencies, the Public Prosecutor's Office, and the Judiciary, which are responsible for giving practical effect to what the Federal Constitution, the Consumer Protection Code, and related environmental legislation already mandate. The enforcement of these infractions should not be treated as mere bureaucracy, but as a state duty to ensure that environmental seals, labels, and certificates maintain their credibility, thus preserving consumer confidence, fair competition

among suppliers genuinely committed to sustainability, and the effective protection of an ecologically balanced environment for present and future generations.

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[1] Doutorando em Ciências Jurídicas e Sociais. Mestre em Direito e Desenvolvimento Sustentável. Especialização em Coordenação Pedagógica. Especialização em Tutoria em Educação a Distância e Docência do Ensino Superior. Especialização em Direito da Seguridade Social Previdenciário e Prática Previdenciária. Especialização em Advocacia Extrajudicial. Especialização em Direito da Criança, Juventude e Idosos. Especialização em Direito Educacional. Especialização em Direito do Consumidor. Especialização em Direito Civil, Processo Civil e Direito do Consumidor. Especialização em Direito do Trabalho e Processual do Trabalho. Especialização em Direito Ambiental. Especialização em Desenvolvimento em Aplicações Web. Especialização em Desenvolvimento de Jogos Digitais. Especialização em Ensino Religioso. Especialização em Docência no Ensino de Ciências Biológicas. Especialização em Ensino de História e Geografia. Especialização em Ensino de Arte e História. Especialização em Docência em Educação Física. Licenciatura em Geografia.

Licenciatura em Ciências Biológicas. Licenciatura em História. Licenciatura em Letras Portugêses. Licenciatura em Ciências da Religião. Licenciatura em Educação Física. Licenciatura em Artes. Licenciatura em Ciências Sociais. Licenciatura em Filosofia. Bacharelado em Direito. Editor de Livros, Revistas e Websites. Advogado especializado em Direito do Consumidor. Coordenador Pedagógico e Professor do Departamento de Pós-Graduação em Direito do Centro Universitário de João Pessoa UNIPÊ; Professor convidado da Escola Nacional de Defesa do Consumidor do Ministério da Justiça; Professor do Curso de Graduação em Direito no Centro Universitário de João Pessoa UNIPÊ; Professor do Curso de Graduação em Direito na Faculdade Internacional Cidade Viva FICV; Membro Coordenador Editorial de Livros Jurídicos da Editora Edijur (São Paulo); Membro Diretor Geral e Editorial das seguintes Revistas Científicas: Scientia et Ratio; Revista Brasileira de Direito do Consumidor; Revista Brasileira de Direito e Processo Civil; Revista Brasileira de Direito Imobiliário; Revista Brasileira de Direito Penal; Revista Científica Jurídica Cognitio Juris, ISSN 2236-3009; e Ciência Jurídica; Membro do Conselho Editorial da Revista Luso-Brasileira de Direito do Consumo, ISSN 2237-1168; Autor de mais de 90 livros jurídicos e de diversos artigos científicos.