

# THE VULNERABLE CONSUMER AND THE GREENWASHING IN THE FASHION INDUSTRY

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## ABSTRACT

This article aims to analyze the consumer's vulnerability in the face of advertising techniques that convey the so-called "greenwashing", aiming to induce the final recipient of products and services to adhere to a supposedly sustainable production process, in view of the consumer society's contemporary concern with the environmental theme, with a theoretical emphasis on the fashion industry. The problem of this research is related to the analysis of the sufficiency of the norms in facing this issue closely related to the dissemination of misleading information. To this end, aspects of national and foreign law are addressed, with allusion to competition issues, in addition to touching on transdisciplinary issues, such as neuroscience. The deductive method was used, with a qualitative approach in carrying out the bibliographic research. Finally, it is concluded that, from the fragile regulation by the Brazilian consumer legislation, there is a need for a bill to ensure consumer protection and competition defense in the face of the greenwashing practice, privileging incentive instruments to encourage companies with regard to adopting transparent and clean practices.

**Keywords:** consumption; greenwashing; vulnerability.

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## **RESUMO**

*Este artigo tem como objetivo analisar a vulnerabilidade do consumidor em face das técnicas de publicidade que veiculam a chamada “maquiagem verde”, visando a induzir o destinatário final de produtos e serviços à adesão de um processo produtivo supostamente sustentável, tendo em vista a contemporânea preocupação da sociedade de consumo com a temática ambiental, com enfoque teórico na indústria da moda. A problemática desta pesquisa relaciona-se com a análise da suficiência das normas no enfrentamento dessa questão intimamente relacionada com a veiculação de informações enganosas. Para tanto, são abordados aspectos do Direito pátrio e estrangeiro, com alusão às questões concorrenciais, além de tangenciar assuntos transdisciplinares, como a neurociência. Foi utilizado o método dedutivo, com abordagem qualitativa na realização da pesquisa bibliográfica. Por fim, conclui-se que, a partir da frágil regulação pela legislação consumerista brasileira, existe a necessidade de um projeto de lei para assegurar a tutela do consumidor e a defesa da concorrência em face da prática da maquiagem verde, privilegiando instrumentos de incentivo às empresas no que se refere à adoção de práticas transparentes e limpas.*

**Palavras-chave:** consumo; maquiagem verde; vulnerabilidade.

## INTRODUCTION

Since the birth of the environmental movement in the 1960s and its increase in recent decades, there has been a gradual growth in advertising for products and services related to the issue. In Brazil, since the elevation of environmental protection to constitutional status, the entire legal system began to organize itself in attention to the transversality of the green element, including the discipline of consumer relations.

On the occasion of the construction of the 2002 Civil Code (central norm in the universe of private law legislation), paradigms such as sociality and ethicity served as a beacon for the interpretation of institutes and concepts secularly consolidated in civil dogmatics. There is no longer any need to talk about ownership, possession, company and contract, for example, without necessarily adding to the concern with the social function and its effects, including environmental ones.

Therefore, in the context of consumer relations, suppliers and marketing professionals seek to capture consumers concerned with environmental preservation, disseminating messages of adherence to the environmental theme in their products, services and commercial practices in general. “Consume sustainably” has been a mantra imposed on the good evaluation of civil relations, inducing even market segments that were notable for their lack of concern for environmental issues to be changed. Food, pharmaceuticals, the fashion industry, etc. are influenced by this environmental ethics agenda.

With the advent of the global COVID-19 pandemic, people have experimented with new social arrangements, many of them related to the issue of social isolation and prevention and health planning measures aimed at fighting the contagion of this disease. As a result, some professionals had to quickly adapt to government guidelines, not only from the perspective of protecting the health of consumers of their goods and services, but, above all, from the point of view of solidarity with other people, for the good of strengthening their brands.

The justification for this research comes from the problem that arises from the false advertising of the commercialization of clean technology, in which suppliers of goods and services make untrue claims about the environmental benefits of their products and services. In addition to the environmental damage that this way of proceeding generates, here we intend to highlight the deficit in consumer trust, with a flagrant attack on

the objective good faith of society, in general, and of the final recipient, in particular.

As a result of these behaviors, some starting questions arise to be faced throughout the text: What are the normative implications of the practice of greenwashing and its sufficiency in favor of the (vulnerable) consumer in Brazilian law? To what extent does greenwashing compromise the synchronic relationship between free competition and protection of consumer relations?

In order to didactically address these questions, a brief historical evolution of the mass consumption society is initially made, along with the gradual concern with the environment from the angle of the risk society. Then, the refinement of the advertising offer (focusing on the fashion market) and the leading role of neuroscience in the decision-making mechanism of consumers in general are addressed, in particular the appeal of “green rhetoric”. At the end, criticisms of the normative instruments intended to protect the protection of consumers are presented, with allusion to the treatment that is also given by comparative Law, in addition to the proposition of instruments to induce “green behaviors” in this segment of the industry.

The methodology of this research (of a qualitative nature, given the exploratory nature of understanding consumer behavior, studying its particularities and experiences with the extraction of data that cannot be expressed in exact numbers) prioritized bibliographic references from national and foreign Law, with support in the deductive method.

## **1 THE EVOLUTION OF UNREFLECTED CONSUMPTION AND THE RISK SOCIETY**

When you see that synthetic fibers such as polyester and nylon can take more than 200 years to decompose (unlike natural fibers such as cotton or wool), you can see the scale of environmental devastation caused by inputs used in clothing, upholstery and other materials, as is the case of studies that show that microfibers represent 85% of the human-produced debris found in the oceans (BROWNE *et al.*, 2011).

Currently, alongside the dramatic COVID-19 pandemic, in which thousands of people are contaminated and die, causing governments, companies and civil society to reorganize and change the logic of the means of production and consumption, paradoxically, there are numerous scientific

reports that the forests are greener, the sky is bluer and the waters of the seas and rivers are more crystalline. This involuntary truce to the environment is yet another confirmation of the absence of linearity and unpredictable results announced by postmodern science, which demands a transdisciplinary reflection on uncertainties and mere judgments of probabilities.

The act of consuming has always existed in the history of societies, and that is a fact. However, it was from the late 18th century, more precisely with the advent of the Industrial Revolution, that its systematization began through the increase in factory production, as well as the replacement of the trust placed in the person of the seller with the phenomenon of brand.

The consumer society has developed gradually throughout history and could, didactically, be understood in three phases, the first being called “consumption-seduction” (which was from 1880 until the end of the Second World War, a period in which some icons of capitalist society such as Coca-Cola and Kodak became popular as a result of the massive investment in marketing), which was characterized by advances in communication and means of transport such as the post office, the telegraph, the telephone and the railways, which allowed the flow of goods. The second phase, called the “Society of abundance”, took place between 1950 and the late 1970s (the so-called “Glorious Thirty”) and provided, due to the increase in production and consumption, an extraordinary increase in the economy, expanding purchasing power and making consumer goods accessible to all. From 1970 to the present, there is the period that Lipovetsky called the third phase of the consumer society: the hyperconsumption society. In this cycle, consumption and technology are very present in the consumer’s life. Consumption is focused on hedonism, pleasures and emotions, in which the act of consumption becomes a means to find happiness (LIPOVETSKY, 2007).

In dialogue with the reflections of Lipovetsky (2007), it is likely that this second cycle of consumer society has intensified a paradigm shift in the understanding of time, because, as consumption became popular, suppliers needed to create new needs in people, making them continue to consume the goods they produced. The need (spontaneous or induced) of the consumer is the fuel, the driving force of the consumer society.

Based on this premise, phenomena such as programmed obsolescence and the disposal of solid waste became umbilically linked to the consumerist universe and, therefore, evidenced the amalgamation of consumer relations

with environmental protection. The challenge for suppliers would be to accelerate the acquisition of products and services, so that longevity, previously considered an important requirement for consumer seduction, now takes a back seat (HOLANDA; VIANA, 2018).

In the same line of thought, Bauman (2008) teaches that the induction of emotions in the consumer leads to a shortened path between the store and the garbage can of goods acquired in the consumer society. The Polish philosopher also asserts that the growth of the consumer society depends on the permanent unhappiness of the consumer. Thus, it is clear that the consumerist society in the search for happiness is simply restricted to buying and consuming, becoming an individualistic society.

In this vein, the fashion industry is among the most fascinating and innovative, but it is also among the most polluting in the world, as it requires huge amounts of raw material. In addition to creating high levels of pollution, producing alarming levels of solid waste, this market is perfectly aligned with the paradigms of liquidity and frivolity proposed by Bauman (2008) and Lipovetsky (2007), respectively, in their reflections on contemporary society's habits.

In their considerations about the aestheticization of the world in the era of artistic capitalism, Lipovetsky and Serroy (2015) point out that one of its outstanding characteristics is the process of accelerating changes in styles that are expressed, for example, in fashion and advertising. For these authors, "[...] is the time of fast fashion, of creativity and innovation in continuous flow, but also with microtrends, of the thousand new trends presented every day, almost in real time, on coolhunting websites and blogs that proliferate on the web" (LIPOVETSKY; SERROY, 2015, p. 54-55).

No wonder there is a worldwide movement in favor of "slow fashion" as a promoter of environmental sustainability. In this regard, Brewer (2019) clarifies that companies that emphasize more sustainable practices make up the slow fashion movement, privileging craftsmanship, good management and product quality. Also according to the author, they naturally promote sustainability through more ethical production techniques, as well as through the use of organic, recycled or more durable materials. It also says that such ventures tend to promote higher wages and greater labor protection for their employees, compared to the fast fashion industry.

The thoughtless consumption associated with the idea of happiness in the purchase of products is guided by massive advertising, which makes the consumer to be attracted to new habits, feeding the permanent desire to

consume. It is observed, therefore, that it is pertinent to associate the need to preserve the environment for future generations with the change in the consumption patterns of modern society.

This feeling makes consumption ever more automatic, leading people to purchase products without taking into account their real need. Allied to this phenomenon, it appears that the process of producing goods in a uniform way is a reality in today's society, in which the useful life of products is mitigated, leading the consumer to a circle of consumption and disposal, which impacts the society's lifestyle and the environment.

Miragem (2013, p. 325) conceptualizes the practice of programmed obsolescence as the “[...] artificial reduction of the durability of products or the life cycle of their components, so that premature repurchase is forced”.

The contemporary consumerist doctrine already points to the need to promote sustainable consumption, notably because “[...] the content of the principle of consumer education must incorporate environmental protection and the efficient use of materials, based on consumer protection” (HOLANDA; FREITAS, 2020, p. 69). In this sense, Holanda and Freitas (2020, p. 68) complement:

In fact, the fundamental right to information, transported to the consumerist orbit through the rhetoric of consumer awareness, seems to be the key to the paradigmatic turn in relation to the crossing from the “homo consumericus” to the bioethical being. The more informed about the phases that precede and follow the contractual relationship, the more the final recipients of goods and services will have the dimension of their leading role in the economic process in which they are involved.

The above contextualization of thoughtless consumption directs the discussion to the risk society debate. According to Beck (2011, p. 244), when dealing with the differences between simple and reflective scientificization, the purposes of the environmental movement departed from concrete and occasional situations (easy to be met and diagnosed) “[...] to approach a general protest against the conditions and premises of industrialization”. Still in the wake of the Polish thinker's thought:

If risks come to worry people, the origin of dangers will no longer be found outside, in the exotic, in the inhuman, but in the historically acquired capacity of people for self-transformation, for self-configuration and for the self-destruction of the conditions of reproduction of all life on this planet (BECK, 2011, p. 275).

Theorizing about the metamorphosis of the contemporary world, in another of his works, Beck (2018, p. 69) points out that “[...] the reflexivity of the second modernity results from the fact that societies now face the

undesirable side effects of their own modernizing dynamics, which they often consciously accepted as collateral damage”.

As for the difficult attempt to categorize the concept of environment into binding and objective premises, Belchior (2019) bases his conclusion on the ideology of complex thinking and on the dynamism, instability and self-regulation of the environment. The author also explains that complex thinking goes against dualism and disjunction, disagreeing with a relationship in which there is superiority of the subject over the object “[...] any modality of ‘centrism’ is excluding, given that it brings an element in high-light, be it the human being (anthropocentrism) or ecocentrism (nature)” (BELCHIOR, 2019, p. 197).

Concerned about the risks to the environment, the United Nations (UN) found that the production and technology models exercised by the richest countries, where most of the planet’s resources and energy are produced and consumed, cause the most serious environmental impacts. This statement was made at the Stockholm Conference (UN, 1972), and this document signals a new phase in international environmental thinking, which seeks to change production and consumption patterns.

Currently, consumption has become the focus of attention to risks in the environment, which has led several non-governmental organizations (NGOs) and civil society through private institutions to study the consequences of consumption practices on the environment. Among these institutions, the United Nations Commission for Sustainable Development, created shortly after the United Nations Conference on Environment and Development, known as ECO-92, initiated a research program to analyze the environmental impact of consumption practices (UN, 2020).

## **2 ADVERTISING AS AN INTRINSIC ELEMENT OF CONSUMER RELATIONS AND THE APPEAL TO “GREEN RHETORIC”**

As the consumer society evolved, the transdisciplinary nature of it became more evident. Studying consumer relations for a long time is not restricted to the interpretation and application of articles of the Consumer Defense Code (CDC); in fact, it is not even limited to the study of Law). With regard to issues related to advertising, it is indisputable that neuroscience plays a central role in understanding the topic. Dopamine, for example, being a neurotransmitter that plays an important role in the reward

system in the brain and initiates the pleasure systems, is the target of neuromarketing and the action of algorithms aimed at capturing consumers.

In a didactic approach to advertising and consumption, Piedras (2007) points out that the itinerary of advertisements and advertising offers represents an intimate link between this form of communication and the vector of the imaginary that is intended to be built, through a symbolic and subtle communion between goods and services and their final recipients. In his study, Rocha (2006, p. 86) analyzes “[...] how consumption is sustained through a cultural code that gives meaning to production; and how a defined institution – the mass media – assumed a leading role in the drama of socialization for consumption”.

From the perspective of consumer relations, Marques (2002, p. 675) clarifies that advertising is “[...] a lawful means of promoting and stimulating the consumption of goods and services, but it must be oriented by the basic principles that guide the relationships between suppliers and consumers, especially that of good faith”.

It is evident that when dealing with advertising, it is not meant that it is an evil in the daily lives of suppliers and consumers. On the contrary, it is through it that the circulation of wealth in society is potentiated and a very dear value is instrumentalized for the microsystem of consumer relations, that is, the fundamental right to information. However, there is no denying that also through advertising, highly effective subterfuges are involved to compromise the freedom of choice of the individual, who, a priori, is already qualified as vulnerable by law. This is where the problem lies.

The act of consuming depends on the informational universe in which the consumer is involved, being composed of: personal experience, influence of trusted people, media, formal channels of consumer education, advertising of other products, skepticism about advertising and the media in general, marketing and, finally, price (SCHUDSON, 1984). It should be noted that many of these elements escape the jurist’s verification when analyzing consumer behavior in the face of advertising.

If it is true that “The heart has its reasons which reason knows nothing of”, as expressed in the famous dictum by Blaise Pascal, why are consumers in general so suggestible to advertising appeals and purchase goods and services that they often do not even consciously evaluate? For Mlodinow (2013, p. 29),

[...] the science of the new unconscious is full of accounts of phenomena like these, idiosyncrasies in our judgments and perception of events and people, artifacts

that arise from the (generally beneficial) ways our brains automatically process information.

Still about brain activity and advertising strategies that can influence behavior, so as to link to the appreciation of a particular brand that induces to create experiences. Experimental consumption, by the way, is a striking feature of the third cycle of consumer relations, according to Lipovetsky (2007). Mlodinow (2013, p. 33-34) clarifies that:

[...] in the early 2000s, new brain imaging studies found evidence that an area neighboring the orbitofrontal cortex, called the ventromedial prefrontal cortex, or VMPC, is the seat of warm, cozy sensations, like the ones we experience when seeing a well-known brand product.

In the same way that the brain can be influenced to unthinkingly prefer the consumption of an Italian wine (compared to another wine, for example, French or German) while listening to “O mio babbino caro” (song by the Italian composer Giacomo Puccini), the person can, as a consumer, be influenced to choose, also thoughtlessly, the acquisition of a good or service that brings with it signs, colors or aromas that denote concern with sustainability – the so-called green marketing–, depending on how much involved is the person with environmental concerns. As for the risk of greenwashing to consumer relations, Holanda and Freitas (2020, p. 72) state that:

The emergence of eco-brands is a phenomenon that proves how the market changes its production and offering habits in front of a public focused on a new ethos (as already announced, through the change from the “homo consumericus” to the bioethical being), which reaffirms that this cultural change can be built with the affirmation of the right to information, as a tool for environmental education and encouraging conscious consumption.

In this context, there is environmental advertising, which is aimed at conveying to consumers an image of the company and its products that shows concern for the environment. In this sense, due to the growing environmental impacts that mass consumption has caused on nature and the fact that natural reserves are finite, there is a need for a sustainable environment, which reflects on consumer relations, making companies begin to introduce the concept of sustainability into their products.

For Lipovetsky and Serroy (2015, p. 259), to the extent that society was exposed to the depletion of natural resources and the environmental risks arising from industrialization, the ecological imperative opposed the

accelerated artistic capitalism and the induction of a “civilization of the trash can” (2015, p. 259). In the opinion of these authors, it is not just the fact of “[...] developing quality industrial arts aimed at the great masses, but of conceiving products that carry values that transcend them: respect for the biosphere, imperative of the collective, responsible eco-citizenship” (LIPOVETSKY; SERROY, 2015, p. 259).

The green consumer is motivated by the desire to consume responsibly, preserve the environment and reflect the well-being of the planet in their purchasing decisions. Green branding, therefore, is more than just the latest marketing strategy to entice people to buy products. Toyota Motor Corporation, led by Prius (a green car model brand), is an example of this effect. As of September 2009, Toyota had sold over two million hybrid vehicles worldwide. The company estimated that these vehicles have resulted in a reduction of approximately 11 million tons of carbon dioxide emissions since 1997 (LANE, 2010).

Art. 4 of the CDC brings the National Policy on Consumer Relations, revealing the objective of involving consumption practices with environmental protection (BRASIL, 1990). This concern with sustainable consumption has led a large part of consumers to purchase products with the “green label”, even if they spend more. Lipovetsky (2007, p. 344) states that the consumer committed to the environment has some peculiar attitudes, because:

[...] they opt for ethical products, refuse identification with brands, buy biodynamic foods, question the environmental impact of the products: behaviors that demonstrate a concern to be a “responsible” actor rather than a passive victim of the market. By accepting to pay more for products that preserve the environment, informing themselves about the social conditions in which the articles are manufactured, striving to minimize their energy consumption (ecological home, transport), these consumers of a new genre involve themselves personally in their mode of consumption.

In this sense, environmental marketing, also called green or ecological marketing, is responsible for consumer behavior at the time of product acquisition. The purpose of environmental marketing is to make products with low environmental impact available to consumers, with attractive prices and good quality of products, that is, which have a potentialized useful life, avoiding disposal and waste, as well as failing to generate consequences that significantly impact the environment.

Some appeals to sustainable consumption have, however, been used in advertising in a misleading way, incorporated into product packaging or other means. Muniz (2008, p. 10) explains that:

Advertising promotes the product and establishes the brand's popularity. This knowledge that the consumer acquires in relation to the product will be responsible for the immediate consumption and the frequency of future consumption, as well as for the brand image and credibility that it will be able to capture in the market.

In comparative Law, when green marketing adopts a misleading posture, it is said that the supplier used the strategy of greenwashing (a term coined in the 1980s by the North American environmentalist Jay Westervelt), which consists of the dissemination of advertisements aimed at an environmental stance, but used in a deceptive way, given that it contains false information with the purpose of gaining consumer confidence and enhancing profits and competitiveness. In these cases, there is an unequivocal offense to the guideline of ethiccity in civil relations. Next, the consequences of this practice in national and foreign Law are discussed.

### **3 NORMATIVE ASPECTS OF GREENWASHING IN CONSUMER AND COMPETITIVE RELATIONS IN HOME AND FOREIGN LAW**

In Brazilian law, environmental education was inserted by Law No. 6,938, of August 31, 1981, and, soon after, by the Federal Constitution of 1988, in its art. 225, § 1, VI, by attributing to the government the realization of education and environmental awareness at all levels of education and public awareness for the preservation of the environment, a teleology that was deepened by means of Law No. 9,795, of April 27, 1999 (which created the National Environmental Education Program).

In Brazil, since there is no norm that specifically deals with the practice of “greenwashing”, it is up to arts. 6, III (right to information, which is based on articles 5, XIV, and 220, both contained in the constitutional framework), and 37 of the CDC to serve to guide the issue, notably when it expressly prohibits misleading advertising, whether explicit or by omission, in whole or in part. As an example, it can be illustrated that misleading advertising occurs when the supplier mentions the fact that the product contains substances that benefit the environment, however, the opposite occurs.

In this vein, it is important that the consumer is attentive to the advertising messages published in the products so that excesses and abuses are not committed. To help consumers in this arduous task, the National Council for Advertising Self-Regulation (CONAR) is the body designed

to combat misleading advertising. With regard to this body, requirements were established so that advertising with a green appeal could be used, which are set out in art. 36 of the Brazilian Advertising Self-Regulation Code, which prescribes the following:

Advertising shall reflect the major human concern with problems related to life quality and environmental protection; so that there shall be vigorously disapproved any advertisement that directly or indirectly stimulates the following: air, water, forest pollution and pollution of other natural resources; urban environment pollution; depredation of fauna, flora and further natural resources; visual pollution of forests and cities; sound pollution; waste of natural resources. Sole Paragraph: Considering the increasing utilization of environmental information in institutional advertising and products and services advertising, the following principles shall be observed: truthfulness – environmental information shall be true, verifiable and possible of being corroborated; accuracy – environmental information shall be accurate and precise and no generic and vague information shall be permitted; pertinence – environmental information shall maintain a relationship with the processes of production and commercialization of the products and services being advertised; relevance – environmental benefit shall be substantial in terms of total impact of the product and service upon environment in all its processes and cycles, from production to use and disposal. (CONAR, 1980).

Regarding the performance of CONAR, Martins and Carmo (2019, p. 54) warn that it is “[...] only a self-regulatory body and, as such, its decisions do not have punitive power, being of spontaneous compliance, which is why it is urgent that its action takes place jointly with civil society, who must be engaged in this important cause”.

Greenwashing is illegal from a civil point of view, not only because it deceives the consumer, but also because it diffusely harms sustainability and threatens competition. By the way, according to Souza (2017), there are seven possible manifestations of “greenwashing”, namely: without proof, when it is environmentally correct, but without certifications; hidden cost, in which the production chain involved is not considered; false labels; uncertainty, when the statement is too comprehensive; less worse; irrelevance, when the environmental statement is useless; and lie.

Based on the study by Souza (2017), a survey was carried out in the city of Fortaleza (Brazil) in 2017 in its main supermarkets (Cometa, Hiperbompreço, Carrefour, Extra, Mercadinho São Luiz and Central Box), with food, domestic utility and personal hygiene products. The objective was to verify if the products had “green arguments” and if they fit in some of the seven items above. As a result of the survey, it was found that, in

the universe of 40 products of the foodstuff, 89 ecological appeals were counted, of which 16 were configured as greenwashing practices (VARELA *et al.*, 2017).

As stated earlier, misleading advertising, however, affects not only the final recipient of the products and services, but also the competition. Thus, an ethical standard must be sought in the messages disseminated to enable the transparency of commercial strategies in relation to price, quality and quantity. When talking about competition defense and consumer protection, it is inevitable to remember the words of Pfeiffer (2015, p. 151), in the sense that “[...] consumer protection is an indirect objective of competition defense policy, since through the application of competition rules there is no way to award rights to the consumer”.

Indeed, consumer protection is not among the main objectives of competition defense, but there is an undisguised relationship between the fight against greenwashing and the protection of the so-called “eco-brands”. A company’s code of ethics is a powerful tool, as a brand can improve its image by adopting a code that responds to the issues consumers care about. Therefore, it is necessary to distinguish between companies that are truly ethical and those that simply appear to be.

In comparative Law, by the way, the topic is no longer new, noting that the number of applications for trademarks and patents registered at the Trademark Office that contain the term “green” more than doubled in just one year, from 1,100 in 2006 to more than 2,400 in 2007. From 2007 to 2008, this number increased by 32%, to around 3,200. The increase in eco-branding activity is a response to a growing demand for sustainable products. The market for environmentally friendly products was estimated at around US\$ 230 billion in 2009 (LANE, 2010).

The supplier, when adopting the practice of greenwashing, in addition to interfering with consumer behavior, also alters the market logic and, consequently, violates the defense of competition, and may incur a violation of the economic order, provided that the conduct is typified in art. 36 of Law No. 12,529, of December 30, 2011.

Sustainability also proves to be a central challenge for the fashion industry, and it is not surprising that NGOs, international organizations, institutional actors and public opinion are pushing the fashion industry in this direction. Conscious and ethical consumers are sensitive that the workers who produced their clothes are protected in their rights, they also want the entire production chain oriented towards minimizing the

environmental impact and they want to protect animals, preferring products in which there has been no cruelty against them.

In terms of damage to the environment, Belchior (2019, p. 180) states that,

[...] in most cases, they are irreparable, which leads to the realization that their defense must be more preventive than reparatory. This is due to the fact that reparation deals with the actualized injury, while prevention deals with the possibility of preventing the damage.

Regarding respect for the right to information applied to the fashion industry, Grappi, Romani and Barbarossa (2017, p. 1170) clarify that as the agents of the consumer relationship understand the environmental effects resulting from the culture of disposable clothes, they increasingly require companies to modify behaviors to minimize them.

Addressing the problem of greenwashing in the large events sector, Griese, Werner and Hogg (2017) understand that, with regard to European law, there is a need to improve the strengthening of norms to combat greenwashing, highlighting the Directive that provides for companies with more than five hundred employees the obligation to disclose non-financial information (for example, those focused on the environment, health protection, human resources, material flows and anti-corruption). These guidelines are potentially capable of, in the long term, enabling the application of sustainable principles in the sector.

In another segment of the economy (clothing production), there is a growing habit of consumers reading the labels inside the products in order to contextualize the social commitment of factories in their countries of origin. In addition to containing details such as the composition of the raw material, labeling can be useful to communicate information related to the environment, the working conditions of their employees, etc. For Cerchia and Piccolo (2019), with regard to North America, it seems that legislation is changing in the direction of holding large companies accountable when they neglect transparency in relation to the production process and supply of their products. In Europe, unfair commercial practices are reprimanded in Directive No. 2005/29/EC (EUROPEAN PARLIAMENT; COUNCIL OF THE EUROPEAN UNION, 2005).

Reflecting on the legislative vacuum in the protection of rights in the fashion industry, Brewer (2019) finds that the corporate behavior of companies in the sector is still ineffective, especially with regard to social

responsibility and sustainability initiatives, which would be useful to improve standards of conduct. In his opinion, legal reforms and incentives would be needed for companies that develop sustainable practices, moving away from the “fast fashion” model.

By the way, the celerity of trends in the fashion segment is certainly a phenomenon that translates into an obstacle to the ideal of sustainable consumption, given that [...] through the precautionary principle, it is intended, therefore, that there is a need to overcome precipitation, improvisation, senseless speed and the desire for immediate results” (MACHADO, 2001, p. 1082).s. (MACHADO, 2001, p. 1082).

With regard to the induction of “green behaviors” by the fashion industry, it is necessary to enhance the recognition of the vulnerability of the consumer in this segment, to enable the effective repair of the consumer harmed by the lack of knowledge of the production process as a result of bad information by the supplier and transport to the consumerist orbit some guidelines of Environmental Law, such as the application of the principles of prevention and precaution, whose normative matrix is found in art. 225, § 1, V, of the constitutional text (BRASIL, 1988), among other norms.

In all the cases analyzed, it appears that the prevention of greenwashing is directly proportional to the realization of the right to information (not through a merely formal rhetoric, but enabling the knowledge of the entire production chain of the goods in favor of the final recipient). Thus, it is urgent to regulate the damage caused by this harmful practice (greenwashing), with the promotion of instruments to induce “green behaviors” (such as tax benefits, for example), because only in this way would one be contributing for the mitigation of environmental risks in convergence with competition defense and consumer protection.

## CONCLUSION

The gradual concern of society with the environmental impacts arising from exacerbated consumption highlighted the need for the study and influence of green rhetoric in the purchase of products and services. In this sense, the development of this research sought to reflect on the use of the “greenwashing” technique in consumer relations as an instrument of manipulation and persuasion of the consumers, leading them to purchase “green products” under the cloak of a deceptive message.

In view of this scenario, it was pointed out that the neuroscience

linked to advertising is a determining factor in the purchase behavior of the consumer, who, already inclined to purchase products with an ecological theme, is potentially motivated to opt for the consumption of the product, without realizing the concrete benefits to the environment. The vulnerability of the consumer when subjected to this marketing instrument is thereby demonstrated.

The need for green marketing to present itself through correct, transparent, precise, understandable and satisfactory information was then evidenced. In the same measure, it is essential to raise individuals' awareness about demanding transparency of information at the time of purchase.

Thus, the regulation of environmental marketing in compliance with the provisions of the consumer defense code and the informing principles of advertising is imperative as an urgent measure. It was found that the national legislation is still notoriously incipient in this area, so that a legal discussion on the subject is necessary, seeking to shed light on the importance of responsible consumption, from the perception of the impact of the negative effects of the production of goods and services that affect the environment, specifically in the fashion industry, as well as in the face of consumer awareness of the risk of practicing "greenwashing".

It was concluded, therefore, that greenwashing interferes with free competition and consumer relations, as it influences the behavior for the acquisition of the product in the face of the advertising of supposed benefits that it can offer to the environment and, moreover, justifies a higher price for the same reason, without major concerns with the concrete demonstration of such benefits. Thus, the mitigation of consumer protection is observed, generating disbelief and distrust in sustainable consumption.

In view of the above, we share the reflection that artistic capitalism, intrinsically related to the fashion industry, has numerous advantages, such as opening inexhaustible possibilities to appreciate beauty and recognize new forms of art, but it is necessary to ensure that the individuals are not abducted by consumerism, fed by advertising strategies and the competitive voracity of brands, capable of inserting them, involuntarily and thoughtlessly, into a narrative that harms environmental sustainability.

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