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GREENWASHING AS A ECPRESSION OF OPPORTUNISTIC APPROACH OF THE BUSINESS WORLD TO ENVIRONMENTAL ISSUES

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Purpose: The aim of the article is to present the issue of greenwashing, the premises for its application, its expressions in the activities of enterprises and its main drivers.
Design/methodology/approach: The article uses a literature review and desk-research analysis concerning the analysis of legislative documents and data obtained from Reports including: The World of Organic Agriculture, European Securities and Markets Authority.
Findings: The article explains the multidimensional nature of greenwashing and indicates that the opportunistic attitudes of the business world are its main cause.
Research limitations/implications: Currently, efforts are made to introduce specific legal solutions, including those concerning the implementation of the ESG standard, in order to curb the "green lie" phenomenon.
Practical implications: The introduction of non-financial reporting obligations, including those concerning the impact of enterprises on the environment, will allow various stakeholder groups to evaluate the actual pro-environmental activities declared by enterprises, and thus will contribute to reducing greenwashing.
Social implications: The presented legislative solutions, primarily in Poland and the European Union (required disclosures) are the basis for a real assessment of the impact of the business world on the natural environment. As a result, control bodies, investors, customers and other stakeholders can compare companies, not only on the basis of their financial profitability, but also specific actions aimed at reducing the negative impact on the environment.
Originality/value: Highlighting the importance of compliance of companies with ESG standards, including those related to their impact on the natural environment, in order to curb the phenomenon of greenwashing is the value of the article. Non-financial reporting on the impact of business on the environment according to the adopted criteria provides opportunities for transparency, reliable assessment and increased trust in economic entities.
Keywords: greenwashing, ESG, environment.
Category of the paper: General review.

1. Introduction

Nowadays, the belief that a company is an integral part of society, not its separate part, striving solely to achieve economic goals is increasingly common. As P. Drucker (2002) writes: "a free enterprise operating in conditions of economic freedom cannot exist just because it is good for business; the meaning of its existence is that it is needed by society". Moreover, business entities are perceived as key and indispensable actors for developing solutions that will stop the threat associated with progressing, unfavorable changes, including environmental ones. It is the business world that is indicated by society as having the tools, technologies and resources, including financial ones, to stop the climate crisis, and finally, it is business that is responsible for taking the right actions. Meanwhile, economic practice provides abundant evidence that it is the constant pursuit of financial benefits, the lack of deeper reflection on the impact on the environment and the resulting long-term consequences that accompanies many business decisions that often have nothing to do with compliance with the principles of ethics and social responsibility.

Greenwashing is an example of such unethical behavior in business. This concept refers to all unfair practices applied by companies to present themselves as implementing the principles of sustainable development by creating a false impression or providing misleading information about the product/service. It is generally assumed that the use of such practices results from the pursuit of increasingly better financial results (greed). Based on the literature on the subject, other factors such as competitive pressure, investor and consumer demand, a firm's characteristics (industry, type of business, supply chain and lifecycle stage, the costs and implications of any strategic actions, organizational inertia) can also be indicated.

Research conducted by GreenPrint (2021) showed that 73% of respondents notice the impact of a product on the environment as a factor that is important when making purchasing decisions. In addition, nearly 64% declare a willingness to pay more for ecological and environmentally friendly products. At the same time, 74% of respondents do not have knowledge on how to properly identify such a product. The presented research results prove that society appreciates values related to environmental protection. In response to social pressure in the sphere of caring for the environment, many companies are implementing the concept of corporate social responsibility (CSR), in which communication with stakeholders, including publishing reliable information from this area in external reports, plays a key role. Such behavior results from the growing conviction of companies that building a positive image for the environment in the future will translate into achieving better economic results and increased competitiveness in a changing environment. It should be noted, however, that the lack of applicable CSR standards means that the form, scope and quality of environmental and social disclosures vary, and companies usually disclose only the positive aspects of their operations, while omitting those that are controversial.

Currently, a promising way to combat "empty words" in the area of environmental protection is the ESG standard implemented in companies. Business practitioners, especially global companies, emphasize that implementing the idea of sustainable development and the ESG standard is a way to build a company's resilience to social, economic and geopolitical changes and crises.

The aim of the article is to present the issue of greenwashing, the premises for its application, its expression in the activities of enterprises as well as its driving factors. It also indicates the main legislative solutions, including those related to the implementation of the ESG standard, the application of which should counteract the practices of the "green lie".

The article uses a broad review of Polish and foreign publications as well as data obtained from reports, including The World of Organic Agriculture, European Securities and Markets Authority, among others.

2. Opportunism as a premise of the “Green Lie”

Most definitions of opportunism found in the literature directly or indirectly refer to the definition by O.E. Williamson (1979, 1985 1993, 1996). According to O. E. Williamson (1998), opportunism should be understood as “devious pursuance of one’s own interest […] which refers to incomplete or distorted disclosure of information, especially in a calculated effort to mislead, to disguise, to obfuscate or to otherwise confuse things. It also includes its more flagrant forms, such as lying, stealing and cheating”. Taking such actions is possible because people making choices do not act in a way that is usually attributed to the hyperrational homo oeconomicus. Neoclassical economists perceived humans as economic entities that have full and true knowledge as well as perfect information, allowing them to choose from a set of decisions the optimal one which maximizes utility. This view was questioned when H. Simon introduced the concept of bounded rationality in the 1950s. It proposed an opposing view to the neoclassical one, stating that people do not act rationally, mainly because they have incomplete information, and in their choices, they are guided by the principle of satisfaction, i.e., choosing the first option that satisfies the individual (Simon, 1955). Market participants may decide not to obtain additional information because of the high transaction costs associated with it. This is an incentive for companies to take opportunistic actions that take advantage of the resulting asymmetry of information. This in turn may lead to adverse selection, i.e., the displacement of better products from the market by worse ones (Akerlof, 1970). Thus, as a result of actions taken by companies, products better advertised as ecological are chosen more often than those that actually have a smaller negative impact on the environment. The extensive literature on the subject distinguishes several types of opportunism, considering such criteria as time, power of impact, formalization, intentions of the party and activity of the party (table 1).

Table 1.
Selected typologies of opportunism

Distinguishing criteria	Description
Website activity	Active opportunism - the party in the relationship deliberately restrains its actions; opportunism occurs through lying, distorting or falsifying facts, exaggerating difficulties and using unexpected events to obtain concessions from the other party.
	Passive opportunism, which consists in taking certain actions that are specified in the agreement as prohibited or ethically incorrect.
Website intent	Excessive opportunism - defined as the open pursuit of profit or advantage of one party in exchange at the expense of the partner, e.g., a supplier forces a price increase without providing any justification.
	Opportunism with cunning - a hidden pursuit of benefits with the deliberate intention of deceiving one of the parties to the transaction, e.g., a supplier demands a price increase, referring to deliberately distorted data as justification and conceals their distortion.
Formalization	Open opportunism is a situation in which a party to a relationship avoids the obligations arising from a formal agreement.
	Hidden opportunism is a situation in which a party violates the rules of social contracts.
Impact of results	Strong opportunism - a form that includes actions that violate contractual norms (terms, clauses, etc.), e.g., theft of common property; expropriation of knowledge or technology; misappropriation of key personnel, avoidance of contractual obligations.
	Weak opportunism - a form that includes actions that violate relational norms, consequently worsening the situation of one of the parties.
Time	Ex ante opportunism - whether and to what extent there is deliberate misleading in the initial stages of the relationship; it is associated with higher costs of creating extensive contracts aimed at limiting the devious behavior of the parties.
	Ex post opportunism - whether and to what extent a breach of the relationship occurs in its more advanced stages, it causes additional transaction costs in the form of monitoring, control or modifying and enforcing the terms of the contract.

Source: elaborated at (Wathne, Heide, 2000); (Kelly et al., 2018); (Barnes et al., 2010,); (Kashyap et al., 2012); (Seggie et al., 2013).

3. Greenwashing and its drivers

The term was first used in 1986 by J. Westerveld in an article in the New York Times (Global Compact Network Poland, 2023). The activist presented an example of the so-called "green lie", i.e., he described the practice of a hotel that encouraged guests to change their towels less often, justifying it with concern for the environment. The seemingly presented ecological action was in fact just a way to reduce the hotel's costs related to the laundry service. Practices such as the one described by J. Westerveld began to be so common and popular that in 1999 the word "greenwashing" was included in the Oxford English Dictionary (Polish Agency for Enterprise Development, 2023). Although many years have passed since then, no single, coherent definition of the concept of greenwashing has been developed in the literature on the subject. According to L. Witek (2013), these are deliberate actions aimed at creating a false image of a company, its operations or products as ecologically and environmentally responsible. According to M. Delmas and V. Burbano (2011), greenwashing can be perceived as two overlapping phenomena – on the one hand, related to the actual impact of companies on the environment, and on the other, related to how companies try to hide their actual activities in order to build a pro-ecological and environmentally friendly image.

Sustainability has become a key element of strategy building; therefore, increasingly more companies are focused on issues related to climate and environmental protection. The fine line between real pro-ecological actions and just creating impressions can be difficult to distinguish. Greenwashing is the practice of manipulating or providing disinformation about the sustainability of products or services in order to “improve” the company’s image.

Many studies show that sustainability is one of the most crucial factors considered by consumers when buying products or services. It is therefore not surprising that companies try to emphasize their ecological approach. However, increasing pressure often causes companies to take a "shortcut" by making dishonest or unjustified statements about their activities, in order to create the illusion that they are actively combating climate change or to gain a competitive advantage. In this way, they risk being accused of "eco-hypocrisy". The catalogue of the most common "eco-fakes" has been defined as the seven deadly sins of greenwashing. They include the sin of the hidden trade-off, the sin of no proof, the sin of vagueness, the sin of irrelevance, the sin of lesser of two evils, the sin of fibbing and the sin of worshiping false labels (table 2).

Table 2.
"The Seven Sins of Greenwashing"

Name	Description
Sin of the Hidden Trade-off	Committed by suggesting a product is “green” based on an unreasonably narrow set of attributes without attention to other important environmental issues. Paper, for example, is not necessarily environmentally preferable just because it comes from a sustainably-harvested forest. Other important environmental issues in the paper-making process, including energy, greenhouse gas emissions, and water and air pollution, may be equally or more significant.
Sin of No Proof	Committed by an environmental claim that cannot be substantiated by easily accessible supporting information or by a reliable third-party certification. Common examples are tissue products that claim various percentages of post-consumer recycled content without providing any evidence.
Sin of Vagueness	Committed by every claim that is so poorly defined or broad that its real meaning is likely to be misunderstood by the consumer. “All-natural” is an example. Arsenic, uranium, mercury, and formaldehyde are all naturally occurring, and poisonous. “All natural” is not necessarily “green”.
Sin of Irrelevance	Committed by making an environmental claim that may be truthful but is unimportant or unhelpful for consumers seeking environmentally preferable products. “CFC-free” is a common example, since it is a frequent claim despite the fact that CFCs are banned by law.
Sin of Lesser of Two Evils	Committed by claims that may be true within the product category, but that risk distracting the consumer from the greater environmental impacts of the category as a whole. Organic cigarettes might be an example of this category, as might be fuel-efficient sport-utility vehicles.
Sin of Fibbing	Committed by making environmental claims that are simply false. The most common examples were products falsely claiming to be Energy Star certified or registered.
Sin of Worshiping False Labels	Committed by a product that, through either words or images, gives the impression of third-party endorsement where no such endorsement actually exists; fake labels, in other words.

Source: elaborated on (TerraChoice, 2010).

The phenomenon of greenwashing undermines the bargaining position of consumers and leads to wrong behavior and unfavorable decisions. The scale of the phenomenon is large, as shown by the study conducted by the American consulting agency Terrachoice (2010).

Out of over 1000 verified products offered to customers by American hypermarkets and promoted as compliant with environmental protection principles, only one was completely free from greenwashing. The agency estimates that in the USA as much as 95% of the analyzed information about products was incorrect. Companies undertake such activities because they bring the expected effects in the form of customer appreciation and loyalty. Creating an environmentally friendly image or product usually finds strong approval from consumers, which translates directly into the profits of entities practicing such behavior (Jakubczak, 2018). In this context, it is worth adding that the market for ecological products is recording a huge growth. Now, the turnover is estimated at around EUR 135 billion (Willer et al., 2024). As a result, the scale of green advertising is also growing. It has increased 10-fold over the last 20 years.

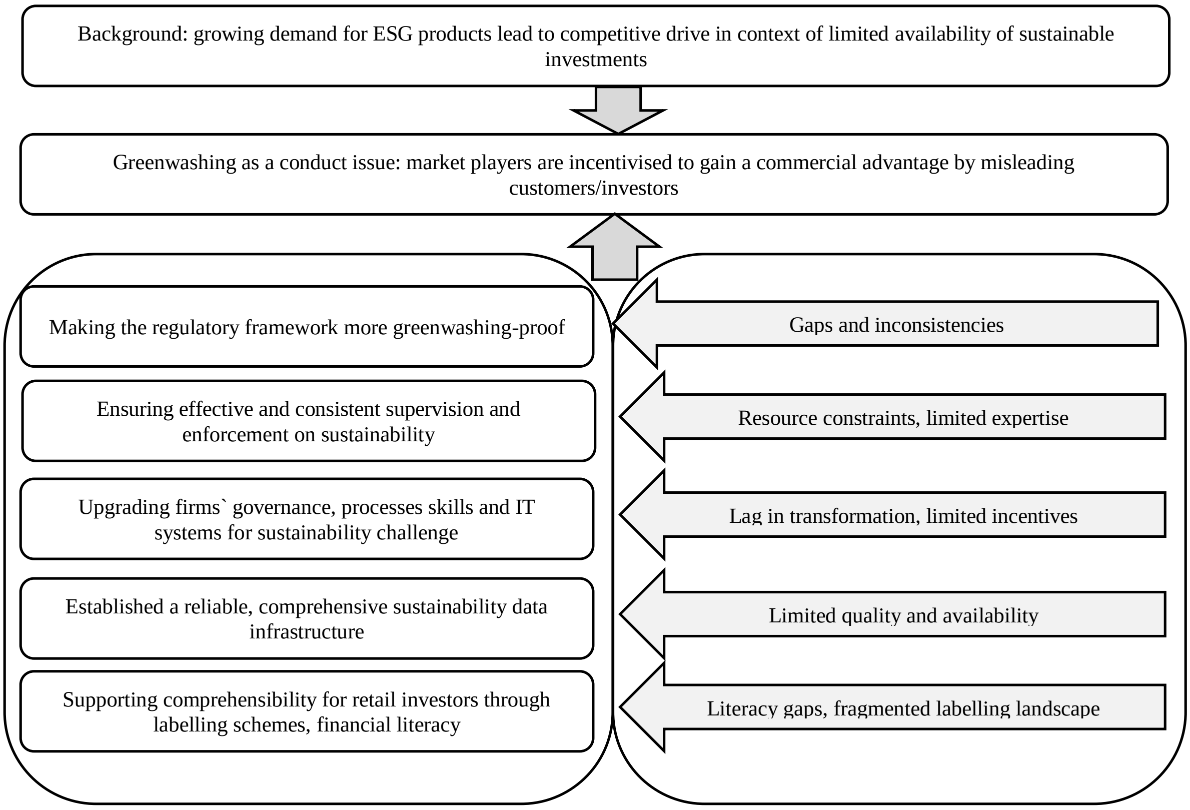

Figure 1. The multiple drivers of greenwashing risks.

Source: (ESMA, 2024)

The latest report by the European Securities and Markets Authority (ESMA, 2024) shows that the fundamental mismatch between the demand for investments that can make a climate/sustainability impact, and the supply of genuine sustainable investment opportunities is at the heart of the greenwashing issue. EMSA notes that “the competitive drive for market shares and revenue has led to both entity-level and product-level efforts at bolstering sustainability profiles”. The temptation to greenwash is therefore very high “in a context of very low levels of taxonomy-aligned assets and investment opportunities for which sustainability performance appears to be beyond doubt or disagreement are still scarce". ESMA said the risk is exacerbated by inadequacies in the regulatory framework such as unclear, ambiguous definitions of certain concepts; lack of standardized calculation of metrics; minimum standards failing to support the ambition level, such as for climate benchmarks; and the absence of regulation for certain widely-used concepts such as "impact investment" (figure 1).

4. Preventing the "green lie" - examples of legislative solutions

Greenwashing practices pose a variety of risks to companies, including potential financial losses and reputational damage that can significantly impact their market position and customer trust. Legal claims including accusations of misrepresentation and even breach of agreement can also occur.

In Poland, Great Britain or the United States, there are no uniform regulations against greenwashing (Stewarts, 2021), mainly due to the aforementioned diversity of practices undertaken by companies that are part of the so-called green lie. In Great Britain, the concept of greenwashing itself has no legal definition, and that is why companies are most often accused of deliberately misleading consumers, violating the Unfair Trading Regulations (Ungoed-Thomas, 2023). In the United States, as in Great Britain, the regulations primarily concern consumer protection against unfair business practices, contained in the Federal Trade Commission Act. In addition, the *Green Guides* developed by the Federal Trade Commission provide advice for companies on how to avoid misleading consumers, thereby avoiding the practice of greenwashing. This document is only an instruction and has no legal force, therefore it cannot be used to bring possible charges against companies using ecological lies. The lack of uniform regulations covering all possible greenwashing practices in the indicated countries creates opportunities for companies to take advantage of this fact and undertake opportunistic actions.

From a legal point of view, in order to act against greenwashing, two directives may apply at the EU level, i.e., the Unfair Commercial Practices Directive (Directive 2005/29/EC) and the Consumer Rights Directive (Directive 2011/83/EU). As a result, many companies must ensure compliance and adapt the offer of their products to consumers in accordance with these regulations. Infringements in this case may primarily constitute a violation of the prohibition of practices infringing the collective interests of consumers, regulated in art. 24 of the Act on Competition and Consumer Protection (Journal of Laws, 2007). This in turn creates a risk of incurring penalties imposed by the President of the Office of Competition and Consumer Protection. In addition, greenwashing may mean the use of unfair market practices towards consumers, referred to in the Act on Combating Unfair Market Practices. Such actions, however, are associated with the risk of liability under the Competition and Consumer Protection Act, including claims for damages from consumers (KPMG, 2024).

5. ESG standard - a new approach to environmental reporting

The subject of greenwashing has been on the agenda of European legislators since 2007, i.e., since the Council Regulation (EC) No. 834/2007 on organic production and labelling of organic products, which, among other things, regulates and conditions the use of terms such as "bio" or "eco". In connection with the CSRD directive, ESG issues (including greenwashing prevention) are now enjoying increased interest from business. The environment area includes five topics: climate change (ESRS E1), pollution (ESRS E2), water and marine resources (ESRS E3), biodiversity and ecosystems (ESRS E4) as well as resource use and circular economy (ESRS E5). A summary of selected indicators in individual topics in the environment area is presented in table 3.

Table 3.
Examples of environmental measures within the ESG standard

Topic	Sub-Topic	Disclosure examples
Climate change (ESRS E1)	– Climate change adaptation; – Climate change mitigation; – Energy.	– greenhouse gas emissions (tons of CO2 equivalent); – greenhouse gas emission intensity (tons of CO2 equivalent/revenue); – emission management (description of the process implemented by the company to reduce greenhouse gas emissions into the atmosphere and the emission reduction targets set); – amount of energy used in the organization (MWh); – amount of energy purchased from outside; – description of the process implemented by the company to reduce greenhouse gas emissions into the atmosphere and the set targets of emission reduction; – % share of energy consumption from non-renewable sources in the total value of energy used in the organization.
Pollution (ESRS E2)	– Pollution of air; – Pollution of water; – Pollution of soil; – Pollution of living organisms and food resources; – Substances of concern; – Substances of very high concern; – Microplastics.	– noise pollution level; – total amount of sewage by quality and destination; – amount of hazardous waste produced in the reporting period (thousand tons); – waste management (description).

Cont. table 3.

Water and marine resources (ESRS E3)	– Water (water consumption, water withdrawals, water discharges, water discharges in the oceans); – Marine resources (extraction and use of marine resources).	– water consumption (m^3, % of reused water); – water resources management (description of processes implemented to optimize water consumption and thus minimize environmental impact).
Biodiversity and ecosystems (ESRS E4)	– Direct impact drivers of biodiversity loss (climate change, land-use change, fresh water-use change and sea-use change, direct exploitation, invasive alien species, pollution, others); – Impacts on the state of species (for example: species population size, species global extinction risk); – Impacts on the extent and condition of ecosystems (for example: land degradation, desertification, soil sealing); – Impacts and dependencies on ecosystem services.	– impact on biodiversity (description of the policy and actions taken to monitor and minimize the company's impact on biodiversity); – investments located near protected areas; – % of revenues generated from areas of sensitive biodiversity.
Circular economy (ESRS E5)	– Resources inflows, including resource use; – Resource outflows related to products and services; – Waste.	– Waste management (description); – % of waste recycled.

Source: own elaboration based on (Commission Delegated Regulation (EU), 2023).

Each topic contains a list of Disclosure Requirements, obliging the reporting entity to define - both quantitatively and qualitatively - its links to a given scope. Both the negative and positive impact of the organization on a given area is considered here (e.g., a company negatively affects ecosystems by taking up a large area for infrastructure but engages in the creation of mid-field woodlots in its area). The developed ESG principles also require organizations to analyze the risks that the discussed aspects carry. Companies must consider what threats to their operations are, for example, climate change (floods, droughts, heat waves, etc.) or a shortage of a key raw material due to the depletion of its resources. Business entities should also present the identified possibilities and opportunities they see in the changing climate and social context (e.g. for a car manufacturer, the depletion of crude oil reserves is a risk to its business model, but the broad promotion of electromobility may be an opportunity to create a new one, e.g. based on electric cars and the infrastructure necessary to service them).

6. Conclusions

The introduction of the obligation to submit non-financial reports is the first step towards limiting the freedom of companies in terms of the content they present in advertisements or on websites. However, it cannot be stated that this is a solution that will allow for ending the problem of greenwashing and opportunistic actions taken in connection with it, because this obligation does not apply to everyone, but only to the largest companies. Therefore, it seems necessary to specify anti-greenwashing regulations and define greenwashing on a legal basis, not only on the basis of case law, but above all on an international scale in order to protect consumers. This is because it is them who suffer the consequences of opportunistic actions of companies that include undermining their trust in advertising, legal institutions or ecological certificates, as well as making suboptimal decisions resulting in contributing, most often unknowingly, to environmental pollution. Their ecological awareness and the decisions they make about purchasing certain products or using services have a real impact on which companies ultimately operate on the market and what products and services are offered to them.

Sustainability reporting is a new reality for European business. The era we are entering means the end of voluntary and selective CSR. ESG reporting will cover around 50,000 European companies (as well as non-EU companies with high turnover on the EU market), while obliging them to comply with strict reporting standards in the field of environmental protection, social policy and corporate governance. The CSRD directive that has been in force since 2024, imposes obligations that will apply to an increasing number of companies over time, increasing their environmental and social responsibility. In practice, ESG reporting requires companies to comprehensively understand and effectively manage their impact on the environment, society and corporate governance. Companies are obliged to publish detailed and reliable information on very specific aspects, measuring them in a precise way, which is the same for everyone. Thanks to this, control authorities, investors, customers and all interested parties can compare companies - not only on the basis of their financial profitability, but also on specific actions aimed at reducing the negative impact on the environment and society.

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