



HIGH-END CAR MANUFACTURER FOUND TO HAVE ENGAGED IN GREENWASHING

25 July 2023

Introduction

It has, during the past decade, become a key vocal point for companies to engage in sustainability actions by striving to have their products and services have less of an environmental impact. The process is born by the heightened focus by consumers on the global environmental challenges and a wish to be ‘greener’. Further, as part of the EU’s Green Deal, the EU has implemented and proposed a wide range of sustainability legislation during the past years, which further draws attention to the subject.

The increased focus on these important topics is reflected in marketing and branding initiatives initiated by companies. With these new marketing efforts, some companies have been promoting themselves in a more environmentally friendly light than what the actual circumstances can

support, as having a green image can, for the above reasons, have a strong value for companies; this is known as greenwashing.

Greenwashing is problematic for multiple reasons; it misleads the consumers into spending money on products or services which they may otherwise not have bought. Further, greenwashing can hamper the green transition and innovation, as it makes it less effective for companies to innovate. For the same reason, the subject of greenwashing has gained political attention, notably with the Danish parliament passing a bill early in 2022 seeking to double the punishment for engaging in greenwashing, and even providing the possibility for imposing prison sentences on responsible persons. Subsequently, the Danish Consumer Ombudsman stated that she onwards would begin to report greenwashing to the police, rather than issuing statements, which previously has been the common practice.

‘Sustainable’ Car Manufacturer

On 19 June 2023, the Danish Consumer Ombudsman publicised a [notice](#) informing that she had reported a high-end car manufacturer to the police for infringing the prohibition on misleading advertisements as stipulated in the Danish Marketing Practice Act (in Danish: “*Markedsføringsloven*”), by advertising their brand and their cars to be greener than what the factual circumstances could support.

In 2021 and 2022, the car manufacturer had used the following phrases in their marketing efforts; “*The world's most sustainable car manufacturer*”, “*There is sustainability in every car [we] produce*”, and “*The entire production chain for [this car model] is green*”. The statements were made in commercials on the official company website, their branding on Facebook, in the streets of Copenhagen, and in selected Danish newspapers.

The Danish Consumer Ombudsman found that the manufacturer had implemented initiatives to cut emissions and thereby produce cars more sustainably. However, the Consumer Ombudsman noted that the initiatives implemented did not materially differ from what were to be considered customary and what corresponding car manufacturers had implemented as well. The car manufacturer thus failed to provide evidence that their products were more sustainable than similar products found on the market, and the statements made by them was therefore found to be misleading by the Consumer Ombudsman, as they gave consumers the impression that the brand and their products were greener than what was actually the case. The Consumer Ombudsman thereby solidified that every product cannot be a ‘green’ option, as the benchmark to evaluate a company’s ‘sustainability’ is the company’s peers.

The Consumer Ombudsman has notified the Danish police of the circumstances, who will carry out further prosecution of the offence.

Our Comments

The advertisements made by the manufacturer were clearly misleading in the meaning of the Marketing Practise Act, the Unfair Business-to-Consumer Commercial Practices Directive, and the guidelines published by the Consumer Ombudsman regarding environmental advertisement, highlighting the need for companies to pay heightened attention to their sustainability marketing.

To assist in sustainability advertisement, the Consumer Ombudsman provided some advice in her notice; *“If companies market themselves with concrete information about their actions to reduce their environmental impact instead of using broad statements, they run no risk of misleading consumers. That is why we recommend companies to be more specific in their marketing. This also has the advantage that we as consumers can relate better to the marketing.”*

Sustainability advertisement has clear potential to be highly effective, as the environmental characteristics of products and services are increasingly of concern to consumers. When doing so, companies should strive to inform consumers of concrete and proven green attributes of such companies’ offerings as the Consumer Ombudsman advice or conducts the necessary compliance check of a company’s vaguer green statements to ensure compliance with marketing regulations and to help them refrain from partaking in greenwashing.

This recent notice from the Consumer Ombudsman underlines the importance of this topic and that it is an area that is experiencing increasing oversight by the public authorities. Additionally, the notice highlights that the Consumer Ombudsman is keeping up with her advised change in practise and that the police will now be notified for further prosecution of greenwashing infringements rather than issuing statements, as has previously been the case.

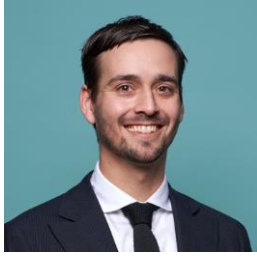
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At Moalem Weitemeyer, we are following both the regulatory and market evolvment of environmental advertising and are always ready to advise our clients on the current situation.

If you have any questions or require further information regarding any of the above, please do not hesitate to contact us.



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