NEED FOR REGULATION OF CORPORATE SOCIAL RESPONSIBILITY IN RESPONSE TO GREENWASHING

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INTRODUCTION

Ethical and green consumerisms have emerged as formidable factors that drive corporations to achieve sustainable modes of production. The concept of “ethical consumerism” is a practice wherein the consumer consumes only those goods that are ethically viable and have been produced by ethical means.³ The consideration of ethics has only come to the forefront of corporate behaviour during the last decade. It is perhaps interesting to note the parallel between the emergence of environmental, labour and human–rights activist networks and the growth in the ubiquity of global corporations. The rapid development of a consumer’s ethical consciousness which govern their purchasing decisions has developed as a reaction to the perceived unethical behaviour of multinational corporations. The retail giant Primark’s economic performance during the mid-2000s is illustrative of plunging profits due to the dissemination of polemic information devoted to exposing the deplorable labour standards and rampant use of child labour in factories in India which constituted the corporation’s global supply chain.⁴ The term negativity bias, which means that individuals are more receptive to negative information than positive information, explains the likelihood of even the most loyal consumers to react to the negative information surrounding a corporation.

Similarly “green consumerism” is a concept wherein the consumer is highly conscious about the environmental impact of consuming a particular good and goes to the extent of switching to another good to reduce the hazardous impact on the environment, even though it may entail a higher cost⁵. Existing literature on the concept of green consumerism indicates that consumer behaviour changes towards sustainable development that are driven by

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environmental citizenship considerations is more likely to last than behaviour driven by financial incentives. As awareness spreads about the need to preserve the environment as well as labour issues, society has started to gain consciousness with respect to the goods they consume.

**POSITION OF GREEN CONSUMERISM AND ETHICAL CONSUMERISM**

At the heart of this trend, lies the assumption that purchasing choices not only express price and quality preferences but also norms, values, and beliefs. This is exactly where the two trains of green and ethical consumerism seem to meet. By consuming green products and boycotting those that exploit nature, consumers feel like they are fulfilling their moral and social obligations, thereby becoming good human beings. Together, it can be seen that consumption is more tightly connected to our social and ethical behaviours in directions and domains other than previously thought. With growing humane feelings as awareness spreads, comes growing restlessness to end the status quo. They not only wish to consume goods that cause less damage to the environment during production and consumption, but also seek to fulfil their moral duty to stop deplorable labour conditions. Consumers wish to buy green products as it reflects on how morally and ethically duty bound they are. This is how there is an inter connectivity between the two. There have been many laws in India that penalize industries and producers who break through the peripheries of environmental damage, such as Environment Protection Act, 1986, Public Liability Insurance Act, 1991, Hazardous Waste Handling and Management Act, 1989. On July 1, 2010 India introduced a nationwide carbon tax of 50 rupees per metric tonne ($1.07/t) of coal both produced and imported into India. But this is where the need for change arises. Many economists are of the belief that only when there is a demand for a particular product, the supply will rise. Along these lines, when the consumers gain environmental and ethical consciousness, they demand for only those products that have been ethically produced and harm the environment least. Thus, sellers will be forced to adopt ethical and green means of production which can work in tandem with laws that penalize them if environmental standards are not followed.

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7 Mukherjee, Krittivas, ‘India eyes millions in green funds from coal tax’ Reuters (New Delhi, 26 February 2010)
The ethical and environmental concerns relating to consumer products could be categorized into three areas:

i. The use and disposal of the product such as energy consumption and sustainability,

ii. The production and transport of the product, including the materials used,

iii. The final area is the general corporate responsibility activities of different categories of companies.\(^8\)

The final area of consumer interest which is the general corporate responsibility activities of corporations shall be analysed in relation to the influence they have on consumer behaviour with particular attention being focused on the phenomenon of “green-washing” which is the practice of deceptive environmental advertising to lure consumers into buying their products based on half-baked promises used in these very advertisements\(^9\). The use of corporate social responsibility initiatives as a marketing mechanism directed towards ethical and green consumers may prima facie appear innocuous; however, oftentimes corporations undertake corporate social responsibility activities that do more harm than good. This paper shall be focused on observing the impact of “perceived corporate social responsibility” activities on consumer behaviour.

**CORPORATE SOCIAL RESPONSIBILITY INFLUENCE ON ETHICAL CONSUMERISM**

In a constantly evolving world where the boundaries of globalization are pushed further every single day, there has never been a more dire need to regulate the transparency and accountability within these corporate giants to tackle issues such as child labour, anti-corruption mechanisms and human rights protection in the realm of CSR activities. In India the Companies Act, 2013\(^10\) mandates that the corporations that qualify under the relevant provision spend 2% of their average net profit on socially responsible initiatives. However, besides the legal ramifications that would ensue if a corporation failed to adhere to the required expenditure on CSR, it is urged that undertaking these activities are beneficial to the

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\(^10\) Companies Act 2013, s 135.
corporations themselves. As elaborated upon in the previous paragraphs ethical consumers wish to buy products that are a reflection of their moral and ethical values.

INSTANCES OF GREEN-WASHING THROUGH CSR ACTIVITIES

Since the dawn of the 2000s, many companies have been undergoing probes due to their scandalous activities under the cloak of Corporate Social Responsibility. Issues ranging from unfair labour standards, to child labour to environmental degradation seem to be an unwarranted by-product of the Corporate Social Responsibility trajectory. The dearth of public regulations in most countries that allows companies to adopt whatever means they please under the aegis of fulfilling their social obligation but such activities often culminate in disaster. This, coupled with green washing has resulted in calamitous consequences as the consumer is vulnerable to being misled by corporations who undertake these activities.

In 2007 Coca-Cola initiated ‘Live Positively’, a programme which dealt with incorporating sustainable principles in beverage benefits, healthier lifestyles, initiatives on energy and climate, sustainable packaging and water management. This was followed up by several reports and studies indicating the appalling presence of pesticides in the beverages that exceeded global standards as well as pesticides in large amounts of groundwater extracted in and around the plants. Similarly, Walmart developed its first Code of Conduct (COC) in pursuance of its policy of social responsibility included suppliers, customers and associates in 2005. It entailed a strict no-child labour policy. However, the Code was amended at the end of 2005 to include a warning-based system on child labour instead of a direct cessation of operations when it made the news for using child labour at two factories in Bangladesh. The factories were found to be employing children aged 10-14 years for less than $50 a month to help make products of the Walmart brand to export to Canada. Another multinational embroiled in the CSR controversy is the case of Apple and the suicides in Foxconn due to

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15 Ibid
lengthy work hours which was against their eye wash of a Code of Conduct policy\textsuperscript{16}. In 2010, two workers were also killed from the leak of a poisonous chemical used to clean iPhone screens\textsuperscript{17}. Thus we see even though companies may have Codes in place to regulate CSR as well as non-CSR activities, it serves no purpose except to appease customers in the realm of green and ethical consumerism. In the race to adopt techniques and policies that create a semblance of being ethically upright and environment friendly, companies often adopt hasty ways of carrying out day to day activities and these guidelines are nothing but tokenism. The end result of these initiatives has been in reality been counter-productive and ruinous as there are no enforcement mechanisms to ensure these guidelines are actually adhered to.

**SOLUTIONS TO THE DILEMMA OF GREEN-WASHING**

As elaborated upon earlier, the emergence of ethical consumerism in the wake of rampant corporate malfeasance and environmental degradation has catapulted the concept of corporate social responsibility into the forefront of corporate governance. The positive correlation found between a corporation’s social responsibility and its financial performance although slight\textsuperscript{18} is no less significant. The integration of environmentally sustainable modes of production and a corporation’s green image would facilitate its entry into niche consumer markets dedicated to ethical consumption. However, the problem arises when any effort that is even nominally environmentally friendly gets painted with a “green brush” so as to mislead consumers about a corporation’s environmental benefits. In essence a solution is sought for the corporate manipulation of CSR activities to bolster its image amongst the environmentally and ethically conscious consumers when in reality they fail produce the projected outcomes.

a) Strict control over corporate advertising:

The Advertising Standards Council in India, (ASCI) has its primary objectives in keeping a check on the veracity of advertisements and inspires public confidence in advertising. However, with relentless competition and the opaque nature of the advertising industry, it is a daunting challenge to distinguish misleading, ‘green-washing’ claims from real initiatives.

\textsuperscript{17} ‘Chinese workers urge Apple to react on n-hexane poisoning’, The Guardian, (London, 22 February 2011)
For instance enforcing bodies in the United States of America such as the Federal Trade Commission (FTC) and the National Advertising Division (NAD) define the standards for environmental communications and ensure that deceptive claims are not put forth\textsuperscript{19}. It is imperative that these enforcing bodies are tasked with judging whether a corporation in making its CSR claims is not overstating its environmental benefits and the claims must be accurate and clear.

b) Implementation of Comprehensive Eco-labelling Programs:

Eco-labelling programs increase awareness of environmental issues, set higher standards for producers to meet and help reduce buyer’s uncertainty regarding a product’s environmental benefits. For instance, ECOMARK India is a government operated seal of approval program for environmentally superior consumer products.\textsuperscript{20} Further ‘India Organic’ is a government authority which provides national standards for all organic produce with the result that consumers are assured that products with the label have been cultivated without the use of chemical pesticides and fertilizers. On the international front the most widely recognised ethical label is the FAIRTRADE certification mark.\textsuperscript{21} When the consumer product bears the mark it serves as an indicator that the product has been traded according to international fair-trade standards. This initiative could probably be taken a step further. So far, we see eco-labels and ethical labels being put on products, but if we could extend that to including a scale indicating the standard of the work conditions, not merely conditions of work environment but also the fairness and morality in employment contracts, of the labour involved it would give the consumer a concrete idea to help pursue their ethical goals. A legislation will need to be passed for the compulsory inclusion of such information on products, or an amendment to the Right To Information clause of the Consumer Protection Act, 1986 could be initiated, wherein it would be the right of the consumer to know repercussions of producing the particular good on the environment, as well as the degree of

labour work standards involved, and make the decision of purchasing the product accordingly.

c) Enforceable Guidelines to Direct CSR activities:

The introduction of enforceable guidelines in India which would govern the procedure surrounding a corporation’s CSR activities and the disclosure of such information would ensure the much needed transparency that consumers require in order to make informed decisions regarding their purchasing choices. Nowadays several multinationals prepare sustainability reports based on the Global Reporting Initiative (GRI) Guidelines on their own accord. These guidelines were created to induce socially-responsible corporate behaviour.

It is proposed that a set of comprehensive guidelines be adopted in India which shall amongst other variables mandate the following steps to be taken in relation to CSR activities:

i. Sustainability Management Systems:

Sustainability Management Systems would make it the corporation’s responsibility to develop a mechanism to ensure that environment and social concerns are in tandem with the corporation’s economic activities. This will ensure that CSR does not remain on the periphery of a corporation’s activities but occupy centre stage in their operations.

ii. CSR Reporting:

It is essential that corporations publish their CSR related initiatives on an easy to access public platform along with the outcomes achieved by such initiatives.

CONCLUSION

Through the course of the paper, the authors have elucidated on how unchecked Corporate Social Responsibility activities induce an unwarranted plethora of disastrous results. Green washing also plays a significant role in influencing consumer decisions which is more often than not deceptive as companies do not adhere to their claims of ethical production.

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Therefore it is urged that by the implementation of the three-pronged solution proposed by the authors, the prospect of misuse of CSR activities will be largely mitigated. The future of the lives and property of millions across the globe either directly or indirectly under control of multinationals would no longer reel under the semblance of uncertainty with the execution of these concrete measures.