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Criminalizing Corporate Greenwashing to Address Ecological Fraud Under the Indonesian Legal Framework

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ABSTRACT

Greenwashing enables corporations to project an image of environmental responsibility while concealing environmentally harmful practices. In Indonesia, this conduct remains regulated through fragmented legal regimes and has not been formulated as a distinct criminal offense. This study examines how Indonesian law can conceptualize corporate greenwashing as a criminal offense and whether such a formulation justifies shifting enforcement from civil and administrative measures to criminal liability. Using normative doctrinal legal research with statutory, conceptual, and comparative approaches, the study analyses greenwashing through the core elements of criminal liability, namely actus reus and mens rea, evaluates current Indonesian regulatory gaps, and compares selected foreign legal approaches. It finds that serious greenwashing can be understood as a form of corporate deception, but the existing Indonesian framework remains fragmented and inadequate to support coherent criminal liability. This study concludes that Indonesia should adopt a targeted direct criminalization model via a statutory patch, supported by a four-element offense structure to provide a clearer doctrinal and regulatory basis for addressing serious greenwashing.

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■ INTRODUCTION

What companies claim about their sustainability often hides a very different reality. Survey data from roughly 1,500 executives shows an interesting trend: while leaders publicly support environmental causes, over half of them (58%) secretly admit to greenwashing. This deception is even more common in the United States. There, 68% of surveyed executives confess to using greenwashing tactics. In fact, two-thirds of global leaders do not even believe their own company's sustainability metrics are authentic (Peters, 2022).

This dishonesty goes well beyond just marketing; it deeply affects global finance. Deceptive companies use it to secure massive funding. Take Volkswagen, for instance. The company paid a thirty-five-billion-dollar penalty for faking emissions data, the largest greenwashing fine ever recorded. Even so, banks kept pouring money into damaging sectors. Between 2018 and 2023, they provided over $286 billion in sustainability loans to industries like fossil fuels, mining, and deforestation. Experts argue that weak regulations let these financial tools mask corporate environmental damage without real accountability (Woola, 2025). Still, the market eventually pushes back. As Du (2015) notes, once investors expose greenwashing, they punish these firms, leading to a sharp drop in cumulative abnormal returns (CAR).

Financial losses are bad enough, but the real danger of greenwashing is how it hides actual physical damage from regulators. We can see this clearly in the recent massive floods in Sumatra. Following the disaster, the government suspended eight companies. Officials suspected their land-clearing practices caused the physical land damage that led to the crisis (Wiryono & Ramadhan, 2025). All these firms actively published official sustainability reports or shared their green claims through their parent corporations.

This situation highlights a serious contradiction. Companies publicly swear to protect the ecosystem, yet their daily operations reportedly trigger catastrophic events. The Sumatra floods lasted for two whole months and sparked a massive humanitarian crisis. The National Disaster Management Authority (BNPB) officially confirmed the human cost: 1,207 people died, 137 went missing, and 963 families (KK) had to evacuate (BNPB, 2026). Infrastructure damage was just as severe. Almost 250,000 homes and over 4,500 schools were wiped out, along with thousands of public facilities, roads, and bridges (Muhamad, 2026). This ultimately shows that fake green claims act

as an informational smokescreen. They cover up destructive practices that cost lives.

To be legally precise, we must separate the crime of lying to the public (informational fraud) from the actual physical destruction of the environment. Greenwashing itself is not the direct physical cause (*causa proxima*) of a flood. The direct cause is the physical damage to the land. However, under the adequacy theory, the legal connection becomes clear. When companies fake their environmental reports, they trick regulators. This prevents the government from taking early preventive action. Legally, this deception is an essential condition (*conditio sine qua non*) that lets the physical disaster happen unchecked. Because these fake reports hide deadly risks, we cannot just treat them as simple administrative violations. Criminalizing greenwashing does not mean punishing the company for the flood itself. Instead, it punishes the dangerous fraud that allowed the disaster. Bringing this into criminal law shifts the focus from minor rule-breaking to prosecuting severe ecological fraud. When executives knowingly distort data and put communities at risk, they meet the basic elements of a crime: deceptive acts and reckless intent.

Several studies show that current laws cannot address greenwashing. No specific rules punish companies for faking environmental data. Right now, Indonesian lawyers must rely on Article 28 of the Electronic Information and Transactions Law or Article 62 of the Consumer Protection Law to bring criminal charges (Daskarata et al., 2025). The Consumer Protection Act lacks the detailed rules needed to stop greenwashing (Istanti & Samsul,2023). Lebie & Sihombing (2025) echo this concern, arguing that weak regulatory standards and limited government oversight only worsen the problem. Clearly, Indonesia urgently needs more precise legal rules and stronger enforcement.

Furthermore, Zentoni et al. (2025) argue that greenwashing should be treated as a criminal offense because current Indonesian laws are very weak. Existing rules mostly focus on protecting buyers from basic advertising fraud, missing the fact that greenwashing is a serious environmental crime. This gap lets companies exploit loopholes and make unverifiable claims, making it incredibly hard to challenge deceptive actions in court. Without specific regulations, judges lack a strong legal basis to punish companies that trick the public, as Daskarata et al. (2025) note.

This lack of specific legislation also creates massive hurdles in civil court. Plaintiffs have to establish legal standing, demonstrate actual harm, and prove a direct link between the lie and the damage. In greenwashing cases, this burden of proof is notoriously heavy because the harms are often widespread, indirect, and hard to measure. For example, imagine a consumer who buys a product falsely labeled "100% recyclable." That person will struggle to prove their specific individual financial loss in court, even though the company's lie hurts the broader market and the environment (Fernando et al., 2025).

To address these systemic issues, Fernando (2025) proposes integrating greenwashing as a distinct criminal act under environmental law. His approach relies on strict liability and corporate criminal responsibility, while also leaving room for restorative justice mechanisms. By moving to a criminal framework, the legal system can bypass the tricky burden of proof required in civil cases. This ensures corporate deception actually gets punished and the environment is protected (Fernando et al., 2025).

Despite these promising proposals, a major research gap remains. We do not fully understand the legal elements required to make greenwashing a formal criminal offense. Few studies examine this through the lens of the Indonesian legal framework. Globally, most legal systems also hesitate to treat greenwashing as a criminal act. By breaking down the criminal law elements of greenwashing, this study seeks to move the debate beyond civil and administrative boundaries and into a stronger criminal framework, which better fits the severe consequences involved.

Against this background, the central research question guiding this study is: (1) How can the legal elements of corporate greenwashing be formulated so that it qualifies as a distinct criminal offense within the Indonesian legal framework? (2) How can this formulation justify shifting its enforcement from civil and administrative mechanisms into the domain of criminal law?

Aligned with this inquiry, this research aims to break down the specific legal elements needed to classify greenwashing as a corporate offense under Indonesian law. At the same time, it provides a clear legal basis for graduated criminal liability in cases of serious, deliberate, or grossly negligent corporate greenwashing. The study's core scholarly contribution is its use of Green Criminology. It frames serious corporate greenwashing as an indirect ecological crime (*indirect ecological crime paradigm*). This is a significant shift from standard corporate studies, which usually treat misleading disclosures as simple market fraud. Furthermore, this study does not just criticize existing laws. It brings together scattered cross-sectoral rules into a clear, four-element offense framework. This

specific structure is designed to hold corporate actors criminally liable for institutional fault (*mens rea*) and deceptive sustainability claims (*actus reus*) in Indonesia, a major blind spot that current legal scholarship has received limited attention.

■ METHOD

Research approach

This research adopted a normative doctrinal legal approach, treating law as an autonomous system of internal rules, doctrinal principles, and legal concepts. Rather than measuring the empirical spread of corporate greenwashing, the inquiry is fundamentally prescriptive; it examines how the legal order ought to respond normatively to severe environmental misrepresentation.

Moving beyond standard corporate criminal frameworks, which typically treat misleading disclosures as mere market or consumer fraud, this study repositions serious corporate greenwashing through an indirect ecological-crime paradigm anchored in Green Criminology. This theoretical lens directs the prescriptive evaluation toward constructing a cohesive, integrated legal mechanism rather than offering a superficial statutory critique.

Legal materials

The study utilizes primary, secondary, and tertiary legal materials to formulate a coherent legal response to greenwashing. Primary materials comprise binding Indonesian legislation addressing corporate governance, disclosure, and environmental standards, notably Law No. 8 of 1999 on Consumer Protection, Law No. 32 of 2009 on Environmental Protection and Management, Law No. 40 of 2007 on Limited Liability Companies, Law No. 32 of 2002 on Broadcasting, Law No. 11 of 2008 on Electronic Information and Transactions (subsequently amended by Law No. 19 of 2016 and Law No. 1 of 2024), and Financial Services Authority Regulation (POJK) No. 51/POJK.03/2017 on Sustainable Finance. The document also incorporates relevant judicial rulings, official policy directives, and select comparative regulatory instruments.

Secondary materials also provide the research's academic backbone. These sources include peer-reviewed journal articles, legal books, and institutional reports that examine corporate criminal accountability, ecological fraud, and greenwashing. Finally, tertiary materials serve as reference guides to clarify specific legal vocabulary, using dictionaries such as Black's Law Dictionary and legal encyclopedias to ensure concepts like *actus reus*, *mens rea*, and compliance jargon are defined accurately.

Data collection procedure

Materials were gathered through library research and targeted open-access legal searches. Primary provisions were retrieved directly from official legislative portals, court repositories, regulatory databases, and institutional archives. Secondary literature was collected from major academic databases using specific search terms, including "greenwashing," "corporate greenwashing," "criminalization of greenwashing," "corporate environmental crime," "corporate criminal liability," "*actus reus*," and "*mens rea*."

The selection process applied strict purposive criteria: first, the material's direct relevance to deceptive environmental marketing or sustainability disclosures; second, its analytical weight regarding criminal fault elements (*actus reus* and *mens rea*); and third, its utility in identifying viable comparative criminalization models. Comparative inquiries were intentionally bounded to jurisdictions frequently highlighted in global regulatory debates, namely the European Union, the United States, Australia, and select continental frameworks. The retrieved sources were then vetted for authority, relevance, and direct pertinence to the research inquiry.

Data analysis

The qualitative content analysis followed a structured protocol to map the relationship between corporate deception and ecological harm under a Green Criminology perspective. In this context, Green Criminology serves as the analytical bridge, shifting the evaluation of greenwashing from a simple economic or consumer rights issue to a systemic indirect ecological crime that actively facilitates environmental destruction.

Rather than merely listing statutes, this study utilized an operationalization matrix to codify the legal materials. This matrix rigorously measures how existing norms handle the specific indicators of corporate fault (*mens rea*) across different regulatory regimes, as detailed below:

Following this codification, the analysis was executed methodically across four main operational phases. The first phase focused on *actus reus* identification, mapping the specific categories of deceptive environmental conduct that can satisfy the objective physical element of greenwashing based on the operationalization matrix.

The second phase focused on mens rea attributability by examining potential fault attribution models for corporate entities,

Table 1. Operationalization Matrix of Legal Analysis

Norm Variable	Tested Statutory Articles	Corporate Fault Indicators (*Mens Rea* / *Actus Reus*)
Informational Fraud & Market Deception	Articles 8, 9, 62 of Consumer Protection Law (UUPK No. 8/1999)	Strict liability for unverified eco-labels; deliberate manipulation of public consumer markets.
Environmental Misrepresentation & Transparency	Articles 68, 69(1)(j), 113 of Environmental Protection Law (UUPPLH No. 32/2009)	Institutional recklessness (*culpa lata*); deliberate concealment (*dolus directus*) of biophysical degradation from regulators.
ESG Disclosure & Corporate Governance	Articles 66, 74 of Company Law (UUPT No. 40/2007); Articles 2, 10 of POJK No. 51/2017	Vicarious liability; systemic corporate tolerance of inaccurate, fabricated, or unverified sustainability reporting.

including intention, recklessness, strict liability, and vicarious liability, to assess the subjective mental element. The third phase then involved a regulatory gap evaluation to assess the structural strengths and limitations of existing Indonesian statutes, both horizontally and vertically, and identify systemic enforcement blind spots. The final phase involved a comparative synthesis, evaluating foreign legal models to determine which institutional approach best informs a targeted direct criminalization framework for Indonesia.

■ RESULT AND DISCUSSION

Greenwashing under Substantive Criminal Law Elements and Theoretical Foundations

Companies engage in greenwashing when they present false or misleading information to the public about their overall environmental practices or the ecological benefits of specific products (Delmas & Burbano, 2011). Because this deception hides real ecological harm, treating it merely as a consumer rights issue or an administrative violation is no longer enough. Framing greenwashing within substantive criminal law requires showing that corporate environmental deception meets the two core requirements of any punishable offense: *actus reus* (the wrongful act) and *mens rea* (the blameworthy mind) (Chatterjee, 2014). Without systematically mapping greenwashing onto both pillars, any legislative proposal to criminalize corporate eco-deception remains doctrinally and legally incomplete.

To establish the physical foundation of this offense, the analysis must first demonstrate that the corporate entity engaged in prohibited conduct. This first requirement, the *actus reus*, demands a voluntary, externally observable conduct, either through a positive act or a culpable omission, rather than a state of affairs that merely happens to an individual (Chatterjee, 2014). As Norrie clarifies, involuntary action is not action at all; a fundamental moral distinction exists between actively doing something and merely having something happen to oneself. Consequently, without a genuine volitional act, criminal responsibility cannot attach, even in regulatory contexts where liability is otherwise strict (Norrie, 2014).

Beyond physical conduct, a valid criminalization framework must also prove the subjective fault underlying the corporate deception. This second requirement, mens rea, is broadly understood as the requisite mental element of an offense, encompassing either a direct intention to commit a crime or recklessness as to whether one's conduct will result in a crime (Norrie, 2014b). This fault element is widely regarded as central to the ethical justification for criminal punishment, reflecting the principle that individuals or corporate entities should face criminal censure only when they have, at a minimum, recognized the harmful nature of their conduct or its foreseeable consequences (Norrie, 2014b)

The Actus reus of greenwashing

The conduct forming the *actus reus* of greenwashing spans a broader spectrum than outright fabrication. Effendy & Prabawani (2026) establish that ESG claims, environmental certifications, eco-labels, and sustainability communications significantly shape investor decisions, consumer behavior, and corporate accountability, so ESG misrepresentation cannot be dismissed as merely a matter of reputation or transparency. They further specify that

deceptive conduct arises from unverifiable eco-labels, selective disclosure, weak verification mechanisms, or institutional tolerance of inaccurate sustainability information, all of which fall between negligent and reckless misrepresentation and carry escalating corporate liability.

Fernando et al. (2025) reinforce this position, establishing that greenwashing has evolved into a sophisticated and systemic form of corporate deception, in which companies engage in deliberate efforts to construct a false narrative of sustainability, often coordinated across departments and jurisdictions and designed to manipulate stakeholder perceptions while preserving profits and avoiding the costs of genuine compliance or reform. The deceptive conduct constituting *actus reus* may take several forms. At its most basic level, it involves using vague, undefined, or unverifiable terms on product packaging, advertisements, and labels, often without scientific support or third-party certification. In more complex forms, it includes selective disclosure, where companies emphasize environmentally beneficial aspects of their operations while concealing harmful practices, as well as self-created certifications and misleading environmental imagery that create a false impression of ecological responsibility. From a consumer protection perspective, such practices not only cause financial harm but also violate consumers' fundamental rights (Gaol & Rini, 2024). Furthermore, the physical conduct constituting greenwashing extends far beyond outright statistical forgery. As Lyon & Montgomery (2015) illustrate, greenwashing is a broad umbrella term that encompasses many forms of deceptive communication, from selective data disclosure and empty environmental policies to the strategic manipulation of visual imagery.

Fernando et al.'s findings reflect this pattern, showing that several companies in Sumatra and Kalimantan continued deforestation and peatland degradation while publicly promoting zero-deforestation commitments and environmental responsibility (Fernando et al., 2025).

The Sumatra flood case illustrates how simultaneously publishing corporate sustainability reports and carrying out environmentally destructive operations constitutes affirmative deceptive conduct. The active publication of sustainability reports by PT Agincourt Resources, PT Toba Pulp Lestari, Sarulla Operations Ltd, and PT Perkebunan Nusantara IV Kebun Batang Toru, while the Ministry of Environment found practices of land clearing beyond environmental approval limits, failure to protect concession areas from illegal encroachment, and weak management and monitoring of environmental impacts allegedly contributing to disasters in the Batang Toru and Garoga River Basins, exemplifies precisely this form of deceptive conduct (Triferna & Khaira, 2025). This study therefore argues that such conduct, when deliberately maintained, satisfies the external physical element of *actus reus* under substantive criminal law doctrine.

The mens rea of greenwashing

Attributing *mens rea* to corporate entities requires moving beyond classical, individual-centered theories of criminal fault, as corporations present a challenge traditional doctrine was not designed to address. Establishing *mens rea* in greenwashing cases is doctrinally complex because corporations, as artificial legal persons, lack consciousness, intention, and moral agency (Amiati et al., 2024), conditions that classic criminal law presupposes in its human subjects. The earliest theoretical model for attributing *mens rea* to corporations operated by treating the mental state of senior management as synonymous with that of the corporation itself. While this approach aligned with the rigid hierarchical structures of earlier corporate forms, it has become progressively obsolete in the contemporary business environment, where operational and decision-making authority is dispersed across departments, subsidiaries, contractors, and automated systems. Today, corporate wrongdoing more often originates not from top executives' conscious intent but from routine operational practices, supervisory failures, distorted incentive structures, or institutional cultures that permit or tacitly encourage risk-taking and unethical behavior (Negara & Briwijaya, 2026).

Because of these doctrinal limitations, strict liability and vicarious liability have emerged as the two most practical mechanisms for constructing corporate *mens rea*, as neither framework requires courts to speculate about the inner consciousness of a fictitious legal entity. Instead, they provide legally operable routes for imputing culpability: strict liability presumes fault from the occurrence of harm or a regulatory violation, and vicarious liability transfers individual agents' fault to the corporation as their principal beneficiary (Negara & Briwijaya, 2026).

These two doctrines address distinct dimensions of corporate fault. Strict liability constructs corporate *mens rea* by treating the existence of harm or the violation of a regulatory rule as sufficient to attribute criminal responsibility to the corporate defendant, shifting focus from subjective blameworthiness to

objective wrongdoing and reframing corporate fault as a duty of control rather than a state of mind (Negara & Briwijaya, 2026). Vicarious liability, by contrast, derives corporate culpability from the culpability of individuals acting within the scope of their employment, imputing both the *actus reus* and the *mens rea* of employees, managers, or directors to the corporation whenever the wrongful act is committed in furtherance of corporate interests, treating the corporation as an extension of its human agents (Negara & Briwijaya, 2026).

Applied to greenwashing, corporate *mens rea* may therefore be established either through the direct intent of officers who knowingly publish false environmental data (*dolus directus*), or through institutional recklessness in the form of systemic tolerance of weak verification systems and unverifiable sustainability reporting (*culpa lata*), as both forms of fault fall within the doctrinal reach of these complementary frameworks (Fernando et al., 2025).

Siano et al. (2017) capture the intentional side of this fault perfectly by calling greenwashing a deceptive manipulation. Because sustainability reports formally bind a company to its environmental promises, faking these documents requires a conscious, institutional decision to deceive, establishing clear *dolus directus*.

In the Sumatra flood case, entities like PT Agincourt Resources or PT Toba Pulp Lestari may have committed institutional recklessness (culpa lata) if they structurally ignored internal data showing land clearing had crossed legal approval limits in the Batang Toru and Garoga River Basins. However, their corporate mechanisms continuously authorized the publication of misleading, unverified ESG metrics to maintain a false green narrative.

This section shows that corporate greenwashing can be systematically mapped onto the two core pillars of criminal liability: *actus reus* and *mens rea*. These findings directly address the first part of the research question by demonstrating how environmental misrepresentation satisfies the basic elements of criminal responsibility within Indonesian law.

Current Regulatory Frameworks and Legal Gaps in Indonesia

Indonesia currently lacks a specific statutory instrument directly targeting greenwashing. Instead, a patchwork of general laws covering consumer protection, environmental management, broadcasting, and financial services regulates the practice, but each only partially addresses the complexity of deceptive environmental claims.

To provide an immediate structural overview of this fragmented legal landscape, Table 2 synthesizes the core statutory instruments currently leveraged against corporate eco-deception, highlighting their respective scopes, relevant articles, regulatory strengths, and baseline systemic gaps:

Table 2. Comparative Analysis of Indonesian Greenwashing Regulations

Statute / Regulation Name	Relevant Articles	Regulatory Strength in Addressing Greenwashing	Regulatory Weakness / Gaps
Consumer Protection Law (UUPK No. 8/1999)	Articles 4, 8, 9, 52, 62	Imposes strict criminal penalties (up to 5 years' imprisonment or a Rp2 billion fine) for misleading advertising or labeling.	The General Elucidation explicitly excludes environmental matters from its scope. Enforcement is also severely hindered by the *ultimum remedium* principle.
Environmental Protection and Management Law (UUPPLH No. 32/2009)	Articles 42, 68, 69(1) (j), 76, 113	Mandates transparency in environmental information, strictly prohibits false data, and grants direct administrative sanctioning powers.	Criminal penalties (Article 113) apply only if false information is given to supervisory officials, excluding public advertising or product labels.

Statute / Regulation Name	Relevant Articles	Regulatory Strength in Addressing Greenwashing	Regulatory Weakness / Gaps
Company Law (UU No. 40/2007) & PP 47/2012	Articles 66, 74	Mandates annual reporting and budgeting for Social and Environmental Responsibility (CSR) specifically for natural resource-based companies.	Narrowly restricted to the natural resources sector. It lacks substantive standards to verify CSR claims and provides no direct corporate criminal penalties.
Broadcasting Law (UU No. 32/2002)	Article 46	Mandates truthfulness in commercial advertising and establishes a standard of public responsibility for media content.	Legal liability falls on the media broadcaster (TV/Radio), not the corporation making the false claims. It does not extend to digital or social media platforms.
OJK Regulation (POJK No. 51/ POJK.03/2017)	Articles 2, 4, 8, 10, 13	Weaponizes disclosure by forcing financial institutions and listed public issuers to prepare and publish structured annual Sustainability Reports.	Operates on a macro-administrative level. Reporting indicators are highly general, third-party verification is not mandatory, and sanctions are strictly non-penal.
Electronic Information and Transactions Law (UU ITE No. 11/2008 jo. UU No. 1/2024)	Articles 1, 28	Governs the legal validity of electronic documents and prohibits the online dissemination of false or misleading commercial data.	It serves as a general cyber law framework; however, it lacks a precise operational definition or targeted clauses to address ESG fraud and ecological offenses.

Consumer protection law (UUPK No. 8 of 1999)

The primary legal basis invoked against greenwashing is Law No. 8 of 1999 on Consumer Protection. Article 4 of the UUPK guarantees every consumer the right to receive correct, transparent, and honest information about the condition of goods or services offered (Yuanitasari et al., 2025).

Article 8 further prohibits business actors from trading goods or services inconsistent with the stated conditions, guarantees, or promises on labels or advertisements. In contrast, Article 9 prohibits promoting goods as meeting specific quality standards when they do not (Irawati et al., 2023). Although these provisions do not explicitly reference greenwashing, they can be interpreted to cover deceptive environmental claims insofar as such claims violate the consumer's right to accurate information.

In terms of sanctions, UUPK provides that business actors who violate the provisions of Articles 8, 9, 10, 13(2), 15, 17(1)(a), (b), (c), (e), 17(2), and 18 shall be liable to imprisonment of up to 5 (five) years or a maximum fine of Rp 2,000,000,000 (two billion rupiah). Business actors who violate Articles 11, 12, 13(1), 14, 16, and 17(1)(d) and (f) shall be liable to imprisonment of up to 2 (two) years or a maximum fine of Rp 500,000,000 (five hundred million rupiah) (Consumer Protection Law, art. 62).

However, despite these severe criminal threats, enforcing these penal sanctions remains highly problematic in practice. Faure (2010) reminds us that deterrence depends heavily on the real chance of enforcement, not just on how severe it looks on paper. This difficulty stems mainly from the strict application of

the ultimum remedium principle, which treats criminal law as a last resort (Ardika, 2021) and favors administrative settlements or civil compensation (Zentoni et al., 2025). This enforcement gap is compounded by the National Consumer Protection Agency's (BPKN) lack of explicit authority to supervise greenwashing-related conduct (Consumer Protection Law, art. 52), leaving the criminal provisions largely dormant in practice.

A deeper structural obstacle lies in the UUPK's Penjelasan Umum (General Elucidation), which explicitly states that the UUPK does not govern consumer protection in environmental matters because the Environmental Management Law already regulates it (Consumer Protection Law, General Elucidation, sec. I). This creates a normative paradox: although greenwashing constitutes a core form of consumer deception, the UUPK textually rejects its own jurisdiction once the commercial representation takes an environmental form.

To resolve this contradiction, this study argues that the UUPK can serve as a primary basis only through a dynamic statutory amendment or progressive reinterpretation of its General Elucidation. A clear distinction must be drawn: while substantive ecological harm falls under environmental law (UUPPLH), the deceptive manipulation of green claims in commerce is inherently a market fraud belonging to consumer law. Uncoupling commercial eco-deception from physical environmental degradation allows the UUPK to legitimately penalize the informational fraud of greenwashing, bridging the current gap between consumer and environmental law regimes.

In practice, the UUPK's role in addressing greenwashing is therefore limited in two ways. Its scope is narrow because other legal regimes address the environmental aspect, and its enforcement is weak because criminal sanctions are rarely used and civil remedies are limited.

Environmental protection and management law (UUPPLH No. 32 of 2009)

The second legal instrument relevant to greenwashing is Law No. 32 of 2009 on Environmental Protection and Management (*Undang-Undang Perlindungan dan Pengelolaan Lingkungan Hidup*, UUPPLH). Unlike the UUPK, which approaches greenwashing from the perspective of consumer deception, the UUPPLH addresses the environmental dimension of misleading claims by imposing affirmative obligations on business actors regarding environmental information. Article 42 of this Environmental Protection and Management Law obliges the government to develop environmental and economic instruments for environmental preservation, including an eco-label system for goods and services that meet nationally standardized environmental criteria. This preventive instrument creates a regulatory benchmark against which unverified or self-declared green claims can be assessed, underscoring the UUPPLH's acknowledgment that false environmental representations constitute a distinct regulatory concern (Irawati et al., 2023).

Article 68 of the UUPPLH expressly obliges every person engaged in a business or activity to provide correct, accurate, open, and timely information related to environmental protection and management. This provision provides the most direct statutory basis for challenging greenwashing in Indonesia from an environmental law standpoint, as it creates a positive legal duty of environmental transparency that false eco-friendly representations would directly violate.

In addition, Article 69(1)(j) of the UUPPLH prohibits anyone from providing false or misleading information about environmental management. At the same time, Article 76 empowers the competent government authority to impose administrative sanctions on business actors who fail to comply with their environmental obligations. These administrative measures include written warnings, government coercion, suspension of operating licenses, and revocation of business licenses. These administrative remedies offer a potentially more accessible enforcement pathway than the criminal route under the UUPK, as they do not require invoking the ultimum remedium principle (Mahesa & Danyathi, 2025) and can be applied directly by the relevant ministry or regional government.

Beyond the administrative framework, the UUPPLH also contains criminal provisions that could theoretically be applied to greenwashing actors. Violating the obligation to provide accurate environmental information under Article 69(1)(j) may trigger the criminal sanctions set out in Chapter XV of the same law. Specifically, Article 113 UUPPLH imposes a minimum imprisonment of 1 (one) year and a maximum of 3 (three) years, along with a minimum fine of IDR 1,000,000,000 (one billion rupiah) and a maximum of IDR 3,000,000,000 (three billion rupiah), against any person who provides false or misleading information, conceals information, or destroys information requested by environmental supervisory officials. In the context of greenwashing, if false environmental claims are made to, or in response to, oversight by officials

of the Ministry of Environment and Forestry (KLHK), Article 113 can be invoked formally.

The main limitation is that this provision only criminalizes false information given to supervisory or law enforcement authorities, not to consumers or the public. As a result, greenwashing through advertising or product labeling falls largely outside its scope, making its use against market-based greenwashing narrow and conditional.

However, the UUPPLH's applicability to greenwashing is constrained by a fundamental jurisdictional limitation. The law primarily regulates conduct that causes or threatens actual environmental degradation, such as pollution, ecosystem destruction, and hazardous waste mismanagement, rather than policing the accuracy of commercial marketing claims. Multiple provisions in this statute explicitly prioritize proving physical environmental damage. For instance, Article 90 requires a clear causal link to environmental harm for government or local authorities to file a claim. In contrast, Article 91 imposes an even stricter threshold for class action lawsuits, requiring the public to demonstrate a shared, tangible loss. As a result, this framework cannot be used to prosecute fraudulent environmental claims unless actual ecological harm can be proven. However, greenwashing usually harms consumers by distorting market behavior and undermining sustainable practices, rather than causing direct physical environmental damage.

Company law (No. 40 of 2007) and CSR obligations

The third legal instrument relevant to greenwashing is Law No. 40 of 2007 on Limited Liability Companies (UUPT). While the UUPT is primarily a corporate governance statute, it includes provisions that indirectly address greenwashing by mandating social and environmental responsibility obligations for companies (Yonandi & Lie, 2025). Corporate Social Responsibility (CSR), referred to in Indonesian law as *Tanggung Jawab Sosial dan Lingkungan*, is defined as a company's commitment to participate in sustainable economic development in order to improve the quality of life of both the surrounding community and the broader environment (Company Act, 2007, art. 1(3)).

Article 74 requires every company whose business activities involve managing natural resources to implement a CSR program. This obligation is not merely aspirational. Companies must budget CSR expenditure as an expense, and those that fail to comply face sanctions. Government Regulation No. 47 of 2012 (GR 47/2012) further elaborates the implementation framework, requiring the CSR plan, including scheduled activities and the required budget, to be approved by the Board of Commissioners or the General Meeting of Shareholders. The outcomes of CSR activities are to be reported at the Annual General Meeting of Shareholders (GR 47/2012, art. 4). In addition, UUPT also obliges the Board of Directors to submit annual reports that include information on the implementation of social and environmental responsibility (art. 66). This reporting obligation is significant in the context of greenwashing, as it creates a formal disclosure mechanism through which environmental claims made by companies become subject to scrutiny within corporate governance structures. Where a company's annual report contains false or misleading statements about the nature or extent of its environmental commitments, the gap between reported and actual conduct may breach the transparency obligations inherent in this provision.

However, several structural limitations constrain the UUPT's utility as an anti-greenwashing instrument. First, the CSR mandate under Article 74 applies only to companies whose activities are in, or related to, natural resources, a scope that excludes many enterprises that make environmental claims in sectors such as consumer goods, fashion, or financial services. Second, while GR 47/2012 imposes procedural requirements on how CSR is planned and reported, neither the UUPT nor GR 47/2012 prescribes substantive standards for the accuracy or verifiability of environmental claims made in connection with CSR activities. The law is therefore silent on whether environmentally embellished or unsubstantiated CSR representations constitute a legal violation (Yonandi & Lie, 2025). Third, the enforcement mechanism is predominantly internal, routed through shareholder approval and board oversight, rather than through an independent public regulator with the mandate and capacity to investigate misleading environmental marketing (Setiawan et al., 2025). The UUPT thus creates conditions for greater corporate accountability in environmental reporting but does not itself constitute a direct or self-sufficient legal basis for challenging greenwashing.

A further, more fundamental limitation is the UUPT's lack of criminal liability provisions for non-compliance with CSR obligations or for making false environmental representations. The sanctions contemplated under Article 74(3) of the UUPT are limited to those prescribed by relevant sectoral legislation, and failure to implement CSR or submit misleading environmental information in annual reports does not directly carry criminal penalties.

Broadcasting law (UUP No. 32 of 2002)

The fourth potentially applicable legal instrument to greenwashing in Indonesia is Law No. 32 of 2002 on Broadcasting (*Undang-Undang Penyiaran*, UUP) (Raodah & Taufik, 2025). The UUP is not an environmental or consumer protection statute; instead, it regulates broadcasting conduct and content in Indonesia. Nevertheless, it remains relevant to greenwashing because it covers advertising transmitted through broadcast media, one of the principal channels through which greenwashing representations reach the public (Irawati et al., 2023).

The UUP establishes two foundational principles that underpin its regulatory content: diversity of content (*keberagaman isi siaran*) and diversity of ownership (*keberagaman kepemilikan*). The diversity of content principle requires broadcast content to be varied and directed toward the public interest. In contrast, the diversity of ownership principle ensures that no single group exercises monopolistic control over broadcasting, preserving fair competition (Irawati et al., 2023). More directly relevant to greenwashing, read in conjunction with the general broadcasting objectives set out in Articles 2, 3, 4, and 5 of the Broadcasting Law, which collectively require that broadcasting activities be conducted responsibly, truthfully, and in a manner that protects the public from fraudulent or misleading content, Article 46 provides a legal framework within which false or exaggerated environmental claims made through broadcast advertisements can be assessed.

Greenwashing through false environmental advertising may conflict with the Broadcasting Law's general requirements of truthfulness and public responsibility. However, the law does not expressly regulate greenwashing or set specific standards for environmental claims, so its application remains indirect and dependent on regulatory or judicial interpretation.

Its limits are significant. Liability falls mainly on the broadcaster, not the business actor behind the false claim, and the law applies only to licensed television and radio, not to digital platforms, social media, packaging, or online advertising, where most greenwashing now occurs.

OJK regulation (POJK No. 51/POJK.03/2017) and ESG disclosure

The fifth legal instrument with potential application to greenwashing in Indonesia is Financial Services Authority Regulation Number 51/POJK.03/2017 on the Implementation of Sustainable Finance for Financial Services Institutions, Issuers, and Public Companies (POJK 51). Unlike the preceding instruments examined in this chapter, POJK 51 applies specifically to the financial and capital markets sector. The Indonesian Financial Services Authority issues it; it is the principal statutory body responsible for regulating, supervising, and overseeing activities in Indonesia's banking, capital markets, and non-bank financial industry sectors. POJK 51 is significant in this analysis because it is the only regulatory instrument in the Indonesian legal framework that directly addresses sustainability-related disclosure obligations (art. 2) and is therefore most closely aligned with the conduct that constitutes greenwashing in the financial and corporate reporting context.

POJK 51 was issued on 18 July 2017 and entered into force on 27 July 2017, with implementation timelines phased across different categories of regulated entities. Its substantive scope is broad, imposing obligations on financial services institutions, issuers, and public companies to: (i) implement sustainable finance principles in their operations and governance (art. 2); (ii) prepare and submit a Sustainable Finance Action Plan (art. 4); (iii) prepare and publish an annual Sustainability Report (art. 10); and (iv) implement Social and Environmental Responsibility in a manner aligned with sustainability principles (art. 8). The Sustainability Report obligation is the provision most directly relevant to greenwashing, as it requires regulated entities to disclose their environmental, social, and governance (ESG) performance in a structured and publicly accessible format (POJK 51, app. II), thereby creating a documented evidentiary basis against which the accuracy and veracity of a company's environmental claims can be assessed.

POJK 51 is relevant to greenwashing because it addresses a particular and increasingly prevalent form of deceptive environmental representation: greenwashing through corporate sustainability reporting rather than consumer-facing advertising. As noted by Prisandani, greenwashing can take place in corporate reporting frameworks such as the mandatory sustainability and annual reporting procedures required for publicly listed companies under the OJK, since exaggerated or untrue environmental claims made in a company's mandatory disclosed report constitute a form of greenwashing directed not merely at consumers but at investors, regulators, and the market at large (Prisandani, 2025). The mandatory nature of the Sustainability Report under POJK 51 is significant in this respect because compliance with POJK 51 is a legal obligation rather than a voluntary undertaking; a company that fulfills the formal requirement of producing a Sustainability Report but populates that report with false,

misleading, or unsubstantiated ESG claims does not merely engage in commercial deception; it instrumentalizes a legally mandated disclosure mechanism as a vehicle for greenwashing.

Nevertheless, POJK 51 retains significant structural limitations as an anti-greenwashing framework. While it has made sustainability reporting mandatory for regulated entities, the literature shows that formal compliance with reporting obligations does not necessarily ensure substantive, comparable, or independently verified ESG disclosure (Mutia, 2025). Mutia finds that although formal compliance among financial-sector issuers is relatively high, ESG disclosure quality and depth remain uneven, with only some issuers providing quantitative indicators, substantive analysis, or independent assurance (Mutia, 2025). She further argues that POJK 51 remains general and descriptive, lacks sufficiently technical and sector-specific indicators, does not require materiality mapping, and therefore leaves room for symbolic disclosure rather than robust, impact-based reporting (Mutia, 2025). This concern is reinforced by Rossi's study of listed financing companies, which identifies independent third-party verification as one of the weakest reporting elements and notes that only two companies clearly disclosed such verification, partly because POJK 51 does not make it mandatory for all companies (Armando, 2025). Taken together, these studies suggest that POJK 51 is more effective at promoting minimum disclosure compliance than at ensuring the level of substantiated, externally tested sustainability reporting needed to deter greenwashing more robustly.

This weakness is even clearer in the context of criminalization. POJK 51 imposes mandatory sustainability obligations, but it relies only on administrative sanctions such as reprimands or written warnings. It does not treat false sustainability disclosure or misleading ESG reporting as a criminal offense (art. 13).

Electronic information and transactions law

The sixth legal instrument with potential relevance to greenwashing in Indonesia is the Electronic Information and Transactions Law, namely Law Number 11 of 2008 on Electronic Information and Transactions, as amended by Law Number 19 of 2016 and most recently by Law Number 1 of 2024 (*Undang-Undang Informasi dan Transaksi Elektronik*, hereinafter "UU ITE"). Unlike POJK 51, which is sector-specific and directed to financial services institutions, issuers, and public companies, UU ITE provides a broader legal framework governing electronic information, electronic documents, and electronic transactions (art. 1). Its relevance to greenwashing is therefore indirect but potentially significant where environmental or sustainability-related claims are disseminated through websites, social media, digital advertisements, e-commerce platforms, or other forms of electronic communication. This relevance arises not because UU ITE expressly regulates environmental marketing, but because it recognizes the legal significance of electronic information and electronic documents and attaches legal consequences to conduct carried out through electronic systems.

In this respect, UU ITE may operate as a supplementary legal instrument in greenwashing cases involving online dissemination, especially where allegedly misleading ESG-related claims are transmitted, reproduced, or relied upon through electronic media. However, UU ITE does not expressly define greenwashing, nor does it establish a specific environmental or ESG disclosure offense.

Structural Legal Gaps

The foregoing analysis shows that Indonesia's central problem is not the complete absence of legal norms relevant to greenwashing, but the lack of a coherent framework to criminalize it as a distinct form of unlawful conduct. Existing laws address only separate fragments of the problem, such as consumer deception, environmental information, corporate responsibility, broadcast content, ESG disclosure, and electronic communications, without integrating these elements into a unified legal concept of greenwashing. As a result, Indonesia's current framework may identify greenwashing as undesirable or misleading conduct. However, it does not consistently translate that conduct into a clear, direct, and enforceable basis for criminal liability.

These structural gaps largely stem from Indonesia's fragmented approach to corporate deception. No existing statute explicitly defines greenwashing or outlines its core elements, leaving a dangerous gray area where misleading environmental claims easily slip past the threshold from routine marketing puffery into punishable fraud. Compounding this, legal liability is scattered across disconnected regulatory domains, each targeting only a single slice of corporate conduct while ignoring the rest, coupled with wildly inconsistent sanctions that range from mild administrative warnings to narrow criminal provisions. These structural flaws prevent the current framework from genuinely deterring corporate greenwashing. This fragmented regulatory landscape directly fuels corporate deception. Lyon & Montgomery (2015) emphasize that a lax, uncertain regulatory environment drives corporate greenwashing by

giving firms a low chance of being punished for misleading claims. As White (2017) notes, corporate environmental violations inherently foster built-in recidivism because firms routinely absorb standard financial penalties simply as an ordinary cost of doing business.

Consequently, the core legal challenge goes far beyond the mere absence of a statute containing the word "greenwashing." The deeper failure is that Indonesian law has yet to conceptualize greenwashing as a unified legal wrong defined by clear parameters of act, falsity, harm, and responsibility. Without this foundational architecture, law enforcement remains piecemeal and reactive, leaving criminal law powerless to label and fulfill its core duties of public deterrence and environmental protection against deceptive corporate practices.

Comparative legal approaches to greenwashing in global jurisdictions

From a comparative perspective, these three models show that effective criminalization does not depend on the term 'greenwashing' appearing in legislation, but on a clear legal pathway from serious environmental misrepresentation to criminal liability.

For this study, the "indirect criminalization model" is an operational concept the author developed, drawing on Cornford's theory of indirect wrongdoing and indirect crimes, which treats liability as arising from contributing to harmful actions or risks created by others rather than from a standalone offense (Cornford, 2013). In this study, the term refers to a regulatory architecture in which deceptive sustainability claims are not criminalized through a separate greenwashing offense, but are addressed through existing offenses and doctrines that capture fraud, deception, manipulation, or unfair commercial practices. At the same time, authorities handle lesser violations administratively and escalate only serious, deliberate, high-impact conduct into the criminal sphere.

The principal lesson for Indonesia is the need to construct a similar escalation mechanism: beginning with regulatory and civil oversight, but capable of elevating deliberate, repeated, and high-impact greenwashing into the realm of criminal law, whether through a specific offense or by reinforcing existing offenses such as fraud, false reporting, and deceptive market conduct.

Germany provides an example of indirect criminalization through existing offense structures. Greenwashing is not a standalone offense, but serious misleading sustainability claims may fall under provisions on false financial reporting, fraud, capital investment fraud, unfair competition, and prospectus liability. Criminal exposure may arise through provisions concerning false financial reporting, including section 331 of the German Commercial Code and section 400 of the German Stock Corporation Act, as well as through the offenses of fraud and capital investment fraud under sections 263 and 264a of the German Criminal Code. In addition, inaccurate sustainability-related advertising may constitute a criminal offense under section 16(1) of the German Unfair Competition Act. Prospectus liability may also become relevant where misleading sustainability claims are included in a fund prospectus or a comparable disclosure document. This framework targets companies with specific reporting obligations but also includes broader rules, particularly in unfair competition (Board of IOSCO, 2023).

The United States takes a different approach, with comparatively strong regulation but less direct criminalization. At the federal level, the Federal Trade Commission addresses greenwashing primarily under section 5 of the Federal Trade Commission Act, which prohibits unfair or deceptive acts or practices in commerce. Although the United States does not currently have a federal statute that specifically criminalizes greenwashing, the Federal Trade Commission's Green Guides remain the principal interpretive framework for assessing the legitimacy of environmental claims made by businesses. First introduced in 1992 and later revised in 1996, 1998, and 2012, these Guides are not legally binding on their own, but they help shape regulatory enforcement and judicial interpretation by setting standards for acceptable environmental marketing. The Guides are also under review to respond to recent developments in sustainability practices and consumer behavior (Fernando et al., 2025).

Although greenwashing has not yet been criminalized at the federal level, the Federal Trade Commission's regulatory approach has become increasingly assertive, signaling a shift toward stronger legal accountability. The agency has shown interest in expanding its enforcement reach, including through cooperation with state attorneys general and foreign regulators in relation to cross-border marketing practices. At the same time, growing public concern about transparency and corporate accountability has spurred discussion among lawmakers and legal scholars about the need for clearer statutory prohibitions and the possible introduction of criminal liability for serious, deliberate environmental deception. This development suggests that greenwashing in the United States is increasingly treated not merely as a marketing ethics issue, but as a significant consumer protection and regulatory policy concern (Fernando et al., 2025).

Australia occupies an intermediate position between general regulation and effective indirect criminalization. It treats misleading environmental claims not merely as unethical marketing, but as conduct that can escalate into formal legal liability, including criminal sanctions in serious cases. Under the Australian Consumer Law, false or deceptive environmental representations may first attract regulatory and civil enforcement. However, where the conduct is deliberate, repeated, or sufficiently serious, the legal framework allows stronger punitive responses against both corporations and responsible individuals. In this sense, Australia does not rely on a standalone greenwashing offense; instead, it indirectly criminalizes serious greenwashing by fitting it within broader prohibitions on deceptive and misleading conduct (Fernando et al., 2025).

What makes the Australian model important is therefore not the existence of a separate crime called greenwashing, but the existence of a clear enforcement pathway from misleading sustainability claims to harsher sanctions, including criminal liability where justified. This creates a more credible deterrent structure than systems that rely only on administrative warnings or fragmented legal provisions. For comparison, Australia shows that greenwashing can be effectively criminalized without a single autonomous offense, provided the law clearly treats serious environmental deception as punishable market misconduct (Fernando et al., 2025).

France presents the clearest example of express criminalization. It is one of the few jurisdictions that has specifically criminalized greenwashing and strengthened sanctions for misleading environmental claims through the 2021 Climate and Resilience Law. Under French law, misleading environmental claims may trigger administrative, civil, or criminal proceedings, and private individuals, professionals, or recognized consumer protection associations may initiate complaints. The 2021 Climate Law further strengthened the French framework by increasing criminal sanctions and allowing fines of up to 80 percent of the cost of the misleading advertising campaign. Where greenwashing occurs, affected parties may pursue civil or criminal remedies, and recognized associations may also intervene in criminal proceedings as civil parties to seek compensation (European Union Agency for Fundamental Rights, 2024).

The relationship between consumer law and environmental protection in France has grown closer, strengthening the legal response to greenwashing. French legislation now connects environmental claims with consumer protection rules through provisions that regulate, restrict, or require disclosure of environmental information in commercial practices. This legal evolution matters because France is among the few jurisdictions that not only regulate misleading environmental claims through consumer law, but also attach criminal consequences to them. The prohibition of misleading commercial practices has therefore become an important legal basis for addressing greenwashing, particularly as courts and legislators have increasingly accepted that deceptive environmental claims fall within its scope (Schill, 2022).

The Climate and Resilience Law further reinforced this framework by confirming the use of consumer-law mechanisms against misleading environmental claims and strengthening sanctions in this area. French law also allows public authorities responsible for competition and consumer protection to investigate and sanction environmental claims, including under provisions connected with the Environmental Code. As a result, France offers a more integrated legal model in which greenwashing can be addressed not only through civil or administrative measures, but also through criminal law when misleading environmental representations amount to unlawful commercial practices. This makes the French approach particularly important in comparative terms because it shows that greenwashing can be criminalized at the intersection of consumer protection and environmental regulation, rather than through a separate, standalone statute (Schill, 2022).

Taken together, these jurisdictions reveal three principal comparative models of criminalization. The first is the express criminalization model, represented by France, where misleading environmental claims can directly attract criminal consequences. The second is the indirect criminalization model, represented by Germany and Australia, where greenwashing is not named as a separate offense but may still be prosecuted through broader offenses such as fraud, false reporting, unfair competition, or deceptive market conduct. The third is the regulatory but non-penal model, represented by the United States, where environmental claims are closely supervised but criminalization remains underdeveloped at the federal level. These comparisons show that the crucial issue is not whether a jurisdiction uses the term greenwashing in legislation, but whether it has constructed a reliable legal pathway from environmental deception to criminal liability. For Indonesia, the comparative lesson is that effective criminalization requires not only relevant regulatory norms, but also doctrinal clarity, institutional coordination, and

a sanctioning structure capable of escalating serious greenwashing into criminal liability.

Unlike Germany and Australia, which primarily rely on an indirect criminalization model through existing general offenses, Indonesia needs a more direct, operative approach. Rather than adopting an indirect framework, Indonesia needs a targeted, direct criminalization model through a statutory patch within existing environmental legislation (UUPPLH) to explicitly codify greenwashing without drafting a standalone code.

Integrating greenwashing as a criminal offense in Indonesia

The preceding analysis shows that Indonesia's central problem is not the complete absence of legal norms relevant to greenwashing, but the absence of a coherent legal framework through which greenwashing can be treated as a punishable criminal wrong. As discussed in Section 1, deceptive environmental claims are capable of satisfying the basic elements of criminal liability, namely the prohibited act and the blameworthy mental element. Section 2 further demonstrated that Indonesian law already regulates aspects of this conduct through consumer protection law, environmental law, corporate disclosure rules, and general fraud provisions, but only in a fragmented manner. Section 3 then showed that criminalization does not always require a standalone statute using the term greenwashing; what matters is the existence of a credible legal pathway through which serious environmental misrepresentation can be escalated into criminal liability.

Based on the foregoing analysis, greenwashing in Indonesia should be formulated as a criminal offence with four core elements: (i) a representation concerning environmental or sustainability performance communicated to consumers, investors, authorities, or the public, (ii) the material falsity or misleading nature of that representation, including through selective disclosure and unverifiable claims or labels, (iii) fault in the form of intent or gross negligence at the corporate level, whether through direct action or systemic tolerance of weak verification and inaccurate reporting, and (iv) legally relevant harm in the form of market deception, distortion of investor or consumer decisions, unfair competition, or impairment of environmental governance and community safety. Treating this conduct merely as an administrative flaw ignores its broader societal damage. Beyond simply confusing consumers, systemic greenwashing actively undermines public trust and can successfully delay the implementation of desperately needed environmental regulations (Lyon & Montgomery, 2015). These elements can be integrated with the Consumer Protection Law, the Environmental Protection and Management Law, the Criminal Code's general fraud provisions, and the sustainability disclosure regime under POJK 51 to create a more coherent pathway for criminalization.

The Consumer Protection Law should be the primary basis for addressing greenwashing in ordinary market transactions. The UUPK already guarantees consumers the right to correct, clear, and honest information and prohibits misleading claims in trade. It also provides criminal sanctions for certain violations, but its relevance to greenwashing remains uncertain because it does not expressly identify environmental deception as a prohibited form of commercial conduct. The UUPK should therefore be strengthened by expressly recognizing misleading environmental claims, false sustainability claims, and deceptive eco-labels as prohibited practices, while clarifying that such conduct may trigger criminal sanctions where it is deliberate, repeated, or affects a large number of consumers.

The Environmental Protection and Management Law should also be reinforced. The UUPPLH already requires business actors to provide accurate and open environmental information and prohibits false or misleading environmental information. However, its criminal provisions largely target false information given to supervisory officials rather than misleading claims made to consumers, investors, or the public. For that reason, the UUPPLH should be expanded so that intentionally false environmental representations made in public communications may also attract criminal liability when they materially mislead others or undermine environmental governance and public trust.

The general fraud provisions of the Criminal Code remain relevant, but they should function only as a supplementary basis. Greenwashing may amount to fraud where false environmental claims are intentionally used to induce transactions, obtain unlawful gain, or cause measurable loss. However, treating greenwashing solely as ordinary fraud is insufficient because it reduces the problem to a bilateral dispute and fails to capture its wider public, environmental, and market effects. A better approach is to recognize greenwashing as a specific form of deceptive market conduct that remains linked to fraud principles but is not limited by them.

The sustainability disclosure regime under POJK No. 51/POJK.03/2017 should likewise be strengthened, especially in the financial sector.

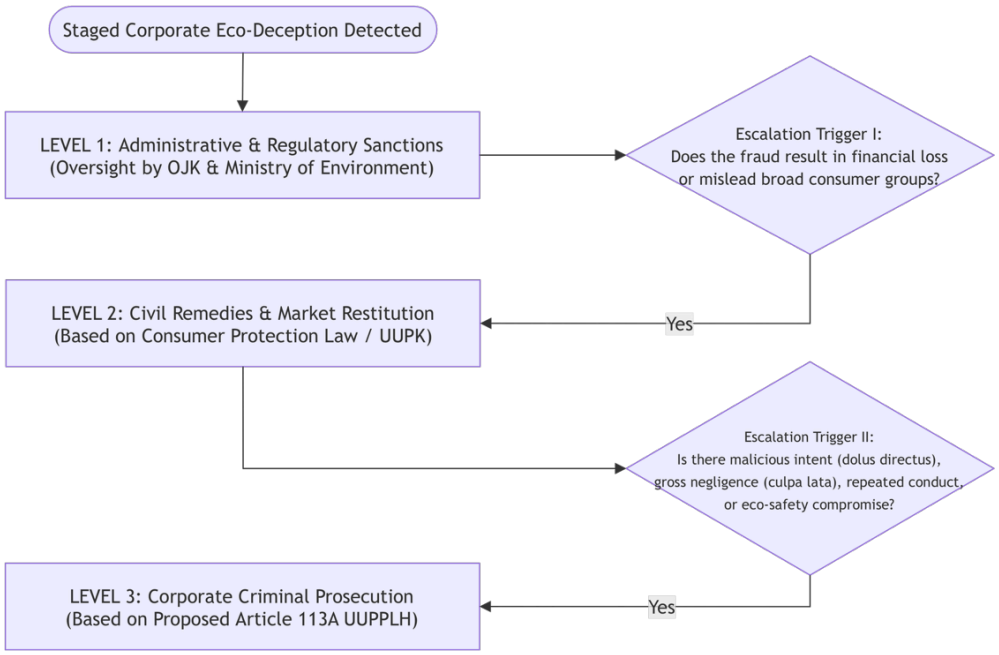


Figure 1. Integrated enforcement pathway for corporate greenwashing.

POJK 51 already requires sustainability reporting by financial services institutions, issuers, and public companies, but its sanctions remain administrative, and disclosure quality remains uneven. Research shows that formal compliance does not always ensure substantive, verified, or comparable ESG reporting. Accordingly, POJK 51 should be supported by stricter disclosure standards, stronger materiality requirements, and more consistent independent verification. At the same time, serious and intentional false ESG reporting should be able to escalate beyond administrative sanctions when it overlaps with deceptive disclosure or fraudulent reporting.

Ultimately, Indonesia needs not only stronger individual statutes, but also an integrated legal formulation that connects them. Greenwashing should be legally defined by four core elements: a representation about environmental or sustainability performance; falsity or material misstatement; fault, intent, or serious negligence; and legally relevant harm, such as consumer deception, investor distortion, unfair competition, or damage to environmental governance. Sanctions should also be graduated. Minor cases may remain within administrative or civil enforcement, but criminal law should apply where greenwashing is deliberate, repeated, large-scale, or causes significant harm.

To make this framework operational, this study recommends a concrete statutory amendment by inserting Article 113A into the Environmental Protection and Management Law (UUPPLH No. 32/2009), formulated as follows: "Any corporate entity that willfully or through gross negligence communicates a materially false or misleading environmental performance or sustainability claim to consumers, investors, or the public, resulting in market deception or distortion, shall be liable to criminal sanctions."

This targeted text expands liability beyond misrepresentations to government inspectors, explicitly penalizing public-facing eco-deception. It establishes clear enforcement triggers by defining actionable fraud, such as fake eco-labels or selective data disclosure. It scales penalties upward if the deception distorts public capital markets or threatens community safety.

By anchoring this targeted patch within the current UUPPLH framework, lawmakers can immediately bypass the lengthy legislative delays of drafting a completely standalone greenwashing code. This practical realignment lets Indonesia adopt a highly functional, targeted direct criminalization model through a statutory patch that fits its existing statutory architecture while giving law enforcement an immediate, codified pathway to hold corporate eco-deception criminally accountable. To clarify how this theoretical model operates in practice, the proposed integrated enforcement pathway is structurally mapped out through a graduated escalation mechanism designed for regulatory authorities and law enforcement, as shown in Figure 1.

As illustrated above, this enforcement pathway filters minor compliance errors at Level

1 through OJK or Ministry of Environment oversight. This dual-track approach aligns with Faure (2010), who emphasizes that combining administrative and criminal mechanisms ensures that violations bypassing criminal prosecution can still face administrative penalties. However, if the corporation fails to comply, or if the eco-deception is structurally designed to mislead broad public markets, the case escalates to Level 2 civil restitution under the UUPK framework. Ultimate corporate liability is triggered at Level 3, where severe, deliberate, and high-impact greenwashing is funneled directly into criminal prosecution through the newly proposed Article 113A of the UUPPLH. In this way, Indonesia can adopt a coherent model that is more compatible with its existing legal framework while still providing a credible, staged pathway from misleading environmental claims to criminal liability.

■ CONCLUSION

Indonesia can no longer treat greenwashing solely as unethical marketing or imperfect disclosure. This study shows that serious greenwashing is a structural form of corporate deception that can mislead consumers, distort financial markets, weaken environmental governance, and undermine public trust in sustainability. The core legal obstacle in Indonesia is not the absence of statutory norms, but a highly fragmented regulatory landscape that fails to translate systemic environmental misrepresentations into punishable corporate wrongs.

Resolving this structural failure requires anchoring corporate greenwashing in the criminal sphere through a targeted direct criminalization model via a statutory patch. Rather than creating an entirely new standalone code, this approach weaves consumer protection rules, environmental statutes, financial disclosure mandates, and general fraud provisions into a cohesive matrix. By introducing a distinct four-element offense structure coupled with a tiered enforcement mechanism, this research directly addresses long-standing legislative blind spots.

Ultimately, this integrated architecture offers an actionable blueprint for legal reform. Codifying a targeted legislative fix, such as the proposed Article 113A of the UUPPLH, alongside a rigid three-level escalation pathway empowers Indonesian authorities to filter minor compliance slips through administrative oversight (Level 1) or pursue civil remedies (Level 2), while reserving severe, high-impact public deception for rigorous criminal prosecution (Level 3). To operationalize this framework, future legislative efforts must embed these coordinated thresholds into cross-institutional national guidelines, ensuring comprehensive accountability and curbing corporate ecological fraud.

■ DECLARATION OF GENERATIVE AI USAGE IN THE WRITING PROCESS

During the drafting of this manuscript, the author utilized Google Translate and Grammarly for the purpose of translating several words and checking grammar. Following the use of these tools, the author reviewed and revised the content as necessary and accepts full responsibility for the final content of the article.

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