



DENTONS

Legal framework applicable to Greenwashing

Country focus: Chile

Grow | Protect | Operate | Finance

Chile	
Legal definition of greenwashing	✗
Targeted greenwashing legislation	✗
Direct regulation of greenwashing (through consumer protection, advertising standards, unfair competition or environmental law frameworks)	✗
Soft law guidance or standards on greenwashing	✗
Applicability of existing national legal frameworks to greenwashing (depending on facts)	✓

Summary of relevant laws and provisions

In Chile, greenwashing, or the use of misleading or deceptive environmental claims, is not directly regulated in any legal framework. However, there are other legal frameworks that are applicable to it, such as Law 19.496, which establishes the rules for the Protection of Consumers' Rights.

1. The Consumer Rights Protection Law applies to the relationship between consumers and suppliers of goods and services. In particular, it applies to any communication aimed at advertising a product or service. If the consumer is a victim of greenwashing, this could be a violation of the right to truthful and timely information about the goods and services offered, their price, contracting conditions and other relevant characteristics. In addition, Law 19,496 states that an infringement of this law is committed by anyone who, knowing or should know and through any type of advertising message, induces to error or deception about not producing damage to the environment, to the quality of life and of being recyclable or reusable. Complaints can be filed with the National Consumer Service (SERNAC) as well as legal claims before the Local Police Court or the Civil Judge of First Instance, depending on the procedure.

Summary of guidance and soft law

In addition to the legal frameworks mentioned above, there are also some guidance and soft law instruments that aim to prevent or reduce greenwashing in Chile. These include:

1. The General Standard No. 461 of the Financial Market Commission which regulates the Annual Report of companies that are issuers of securities and incorporates several ESG issues.

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Claims & enforcement

Greenwashing claims can be brought by various actors and bodies, depending on the legal framework and the type of remedy sought. These include:

1. Consumers, who may present complaints before the SERNAC as well as claims before the Local Police Court or the Civil Judge of First Instance, depending on the procedure, with the purpose of sanctioning the supplier who incurs in the infraction, to make the act that affects the exercise of consumer rights cease, or to obtain the due compensation for damages or the corresponding reparation.

Sanctions & remedies

The sanctions and remedies for greenwashing vary according to the legal framework and the nature and gravity of the infringement. They can include:

1. Civil damages for violation of Law 19,496 on Consumer Rights Protection and fines imposed by the Courts of Justice that can reach up to 2,250 Monthly Tax Units (equivalent to approximately USD\$160,380).



Evidence & substantiation

The evidence and substantiation requirements for greenwashing claims depend on the legal framework and the burden of proof. If a claim is filed under Law No. 19,496 on Consumer Rights Protection, under the general rules of Chilean law, the following principles apply:

1. The claimant must prove the facts that support his lawsuit and the damage it generates, unless there is a legal presumption in his favor.
2. The parties may take all actions aimed at proving the infraction and proving their rights and may avail themselves of any means of proof admissible under the law.
3. The evidence shall always be evaluated according to the rules of sound criticism.
4. The burden of proof may be distributed differently according to the availability and evidentiary facility of each of the parties.

Recent litigation

To date, our team is not aware of any litigation in Chile focusing specifically on greenwashing.

Key contact



José Ignacio Morán
Partner, Santiago, Chile

+56 2 2411 9200
joseignacio.moran@dentons.com



José Domingo Villanueva
Partner, Santiago, Chile

+56 2 2411 9200
josedomingo.villanueva@dentons.com