Symbioses between Green Marketing Sustainability and Competition Law in Malaysia

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ABSTRACT

Purpose: The urgency to control and reduce environmental disasters to the air and water as well as plastic pollution, acute deforestation, industrial waste, chemical spills, climate change and global warming calamity has triggered the universal Sustainable Development Goals (SDG) policy. Thus, diverting the attention of every level of human activity towards attaining a ‘sustainable’ environment. This universal war against such environmental disasters has developed a reason to incorporate SDG policy goals into the Competition Law and Policy (CLP) globally. This exploratory study aimed to determine the symbiosis between the competition law and United Nations (UN), SDG policy application under Competition Act 2010 for promoting and enhancing Green Marketing (GM) in Malaysia.

Methodology: The study examines viable options for competition regulators to address sustainability policy for green marketing (GM) benefits under the scope of CLP. The study applies qualitative analysis by way of comparative study to the European Union (EU) approach to determine GM marketing legitimacy for acclaiming SDG policy as a criterion within the exemption proviso in the Competition Act 2010, Malaysia.

Findings: Competition Law can support GM sustainability initiatives to improve the environment since GM is not just about producing and marketing environmentally sustainable products but from a broader perspective contributes to innovation and consumer welfare. Hence, GM’s social market and societal benefits towards sustainability objectives are arguably considered to outweigh its countervailing anticompetitive effects for sustainable exemption policy under the CLP. However, GM can only substantially contribute to addressing global warming and the environment under the SDG if applied legitimately. In addition, the GM must be also endorsed to incorporate broader environmental-related benefit policy within its competition law prohibition and exemption framework to resonate with the UN’s SDG.

Implications/Originality/Value: The endorsement of GM sustainable benefits by way of exemption, exception or being pro-competitive allows a fair competitive advantage for GM industry growth. The research examines and proposes the exemption options for GM-related mergers, a collaboration by way of agreement and
Introduction
The concern for climate change and global warming has agitated the United Nations (UN) to introduce the Sustainable Development Goals (SDG) (UN, 2015; UN, 2030) policy to be adopted universally for the general well-being of human welfare, animals and mother earth. The UN’s SDG obligated and imposed the international community and policymakers to undertake environmentally ‘sustainable’ solutions seriously at every level of human activities by applying conducts aimed at reducing, protecting and saving the natural environment and ecosystem. Human activities are dominated by massive business activities that are implanted with voluminous environmental damaging conducts or factors that are disastrous to the natural ecosystem. Such as air, water and plastic pollution, deforestation and hazardous industrial waste and chemicals. Hence the effort to save the planet from such exodus disasters and to focus on how to attain a sustainable environment has become pertinent. Consumer empowerment and business efforts can significantly contribute to encouraging sustainable consumption and production reduction to heed the “Universal Call” for attaining the SDG. In this context, Green Marketing (GM) efforts are an essential strategy for reducing environmental degradation and promoting the United Nations SDG Goal No.13 Climate Action (UN, 2015). Hence competition authorities have considered to what extent cooperation and coordination on sustainability can be permitted or considered pro-competitive.

Malaysia’s commitment towards achieving the SDG objectives is endorsed by way of numerous policies and programs under the National Product Certification Program, Standards and Industrial Research Institute of Malaysia (SIRIM). The creation of eco-labelling schemes and environmental sustainability policies are also endorsed by the Agricultural Department and Federal Agriculture Marketing Authority (FAMA). Malaysian Energy Commission endorses agricultural products and energy efficiency schemes (Rahbar & Wahid, 2011). Nevertheless, these initiatives are mostly projected and focused towards advocating green marketing and consumer education or information to identify environmental products as well as their specifications. There is yet a specifically directed setting for any standards to identify or legitimise the eco-label, eco-brand, and environmental advertisement developed for green market (GM) initiatives towards saving the environment. The environmental saving efforts of the GM market therefore not competitive.

This study first, discusses the legal issues in the GM sustainability concept and scope within the Competition Law (CL) by addressing the gap in GM definition, legitimacy and challenges in determining its environmental benefits within the SDG to be a part of consumer welfare from a broader perspective. Secondly, discusses the exemption or exception options for GM within the CL policy by way of a comparative study with the approach adopted in the European Union. Finally, concludes by proposing the exemption options for the GM business market concerning anti-competitive mergers, horizontal agreements on pricing and exclusive distribution policy. The CL exemption policy is potentially explored under the exemption policy or for being pro-competitive under CA2010.

Green Marketing, Sustainability Policy, Legitimacy and Market Competition Challenges
Sustainable Development and Green Consumer
The World Commission on Environmental Development described ‘sustainable development’ as “meeting the needs of the present without compromising the ability of the future generations to meet their own needs” (U.N, 1978). GM endorsed contributing to SDG by encouraging and producing products with minimal detrimental to nature. The growing awareness for reducing global warming,
non-biodegradable solid waste and harmful pollutants have turned both marketers and consumers to be increasingly sensitive towards switching to ‘green’ based products and services (Gupta et al., 2013). Hence, such environmental concern has led society and government to go green to reduce the impact on humanity, animals and natural well-being. Consequently, the word ‘green’ became an iconic buzzword in the war against climate change and global warming towards attaining sustainable development in every nation. Consumers and businesses started to cater for eco-friendly products and become more concerned about the impact on the environment, human health and the earth’s resources (Yeng & Yazdanifard, 2015). This phenomenon has resulted from a wider trend for Green Marketing (GM) concept to be used (ethically as well as unethically) as one a lucrative strategy for enterprises or corporations to gain profit as well as to protect the environment.

Definition of Green Marketing
Green Marketing (GM) has no universal standardization standards or public consensus as to what constitutes "Green". Polonsky defined GM as activities designed to facilitate and generate exchanges that aimed to satisfy human needs as and when needed with minimal detrimental impacts on the environment (1994). The American Marketing Association (AMA) described GM as that which essentially incorporates environment-friendly activity by way of adjustment and modification to the products' production processes as well as its marketing, packaging, labelling, and advertising strategies (Yazdanifard & Mercy, 2011). Meanwhile, Elkington (1994) defined “green consumer” as those who avoid product which can endanger consumer health or others, that consumes a disproportionate amount of energy, cause unnecessary wastage, significant damage to the natural environment and/or adversely affect other countries during manufacture, use or disposal. The green consumer also avoids materials originating from threatened species or causing unnecessary use or cruelty to animals. Thus, green consumer goods or products must be either manufactured by avoiding toxic materials or ozone-depleting substances by using or prioritising the usage of recycled or able-to-be-recycled materials. Otherwise use renewable materials. Additionally, not use excessive packaging or designed to be repairable and not subjected to be thrown away as waste (Ward, 2020).

These adjustments require the progressive involvement of corporations in practices, with various management changes. The policy changes adopted indicate a greater standard of concern for the community's well-being. Hence, GM co-relates to product or production and marketing concepts that do not harm the environment or with minimal detrimental to nature (Gupta et al., 2013). Hence, GM encapsulates and showcases its eco-friendliness or eco-marketing strategy that contributes towards maintaining sustainable environmental benefits. Therefore, every organisation, regardless of its industry, is required to be integrating these sustainability features into their business strategy.

Development of Green Marketing: Legitimacy, Challenges and Competition
The development of GM strategy according to Peattie (2001) evolved over three phases. Firstly, "Ecological" green marketing, when marketing activities focused on helping environmental problems and remedies for environmental problems. Secondly, as GM focused on "Environmental" concerns, shifts the focus towards clean technology promoting innovative designs (for products, processing or manufacturing) that reduces pollution and waste issues. Thirdly, GM ‘Sustainable’ green marketing activity concept referred to activities that intend to responsibly interact with the planet or earth to maintain its natural resources and avoid jeopardizing the future generation’s needs (Evans, 2020). However, in practice, GM terms usage is blurred with various definitions and unethically used by the business for marketing purposes. GM labels or promotions are often exploited to gain a competitive advantage for premium pricing. Therefore, a clear standard and correct price signal in the consumer market is essential to reflect its environmental externalities for entitling to claim incentives for investment in green technologies and competition.

Therefore, GM to be considered for achieving SDG and competitive has to address several challenges to establish its legitimate claim to be sustainable and capture the consumer market. The business of going green also involves a costly start-off. Its experimental nature in the consumer market requires
impressing a positive image among consumers. Thus, the consumer must constantly educate and warn of the environmental threats by way of advertisements not just to promote the products but educate the consumer to justify their features and premium pricing. These green initiatives take time to reach the masses and potentially additional marketing costs.

The challenges faced by GM entrepreneurs include firstly, ‘Green’ or GM term needs standardization to authenticate its sustainable claims from false claims to certify the product's sustainability aspects. The usage of terms such as truly organic, plant-based or biodegradable requires the involvement of the relevant regulatory bodies to provide the certifications and set the standards as to its quality control, labelling and licensing. The standardization requires both legal and scientific endorsements to validate or qualify GM claims (Ward, 2020).

Secondly, there is growing pressure to address ‘greenwashing’ accusations in GM businesses that are sowing seeds of doubt around the sincerity of wider climate pledges and corporate responsibility (Ramakrishnan, 2022). Greenwashing falsely claims a product, service, or business activity is environmentally friendly or reduces greenhouse gas emissions. Greenwashing mushroomed ever since GM labels were treated as a favourable tool for promoting sales and charging a premium price. Its immense advertising impact has caused regulators and courts to insist on strict requirements to prevent “greenwashing”, i.e., unsubstantiated, or misleading environmental claims (Shaper & Yang, 2022). Deceitful advertising that is disguised as battering the planet to gain consumers has gained greenwashing centre stage (Robinson, D., 2021) and plagued the environmental sustainability products market.

GM's legitimacy therefore must be measured against the unethical ‘greenwashing’ business syndrome that distorts consumer trust and penalises legitimate and innovative eco-friendly businesses in the marketplace. Greenwashing has risked sustainable products markets growth by allowing unsustainable business practices to flood the market (Shaper & Yang, 2022). The Competition Bureau in Europe recognised its seriousness by issuing a clear warning by way of ‘business alert’ to ensure eco-related claims, such as “organic”, “green” and “eco-friendly” comply with their respective Competition Regulations. Otherwise, will be subjected to false or misleading advertising or performance claim provisions. Although generally, consumers may be aware of what’s required for GM but there is still exist a large percentage of consumers who is unaware of what to look for when buying green products (GIA, 2020).

Thirdly, GM's commitment to a sustainable environment policy and its related corporate social responsibility (CSR) (Ward, 2020) requires them to apply eco-friendly and harmless environmental processes in the course of business (or production) for preserving natural resources. The physical removal of raw materials for or in the product and packaging process must avoid contamination and pollution at all costs besides converting waste into recycled products such requirements incur extrinsic costs and the process can be pricey. Hence, GM products or services are comparatively more expensive as a greener price is termed a premium price. This results in additional competition stress on marketing and promotion in the market. (Yazdanifard & Mercy, 2011).

Fourthly, GM investors' and corporates' reliance on environmental benefits as a primary long-term investment opportunity, requires lots of time and patience which does not have an immediate profit or results. Therefore, the effect on the environment through the GM concept has an acceptance period (Yazdanifard & Mercy, 2011). That also means the GM industry is not cost-efficient initially and is faced with competitive barriers in the open market which is flooded with cheaper conventionally produced cost-efficient products. Hence, the marketing exertion must rationalize these in the value of expenses incurred to convince the consumers.

Fifthly, GM faces acute hardship when faced with fierce competition from non-green products which are produced faster, cheaper, and well-recognised among consumers. Therefore, the key economic-
based competition barrier for sustainable business practices or GM among others prominently includes (1) higher initial cost or costly upfront investment (although potentially may generate great rewards in the long run). The task of facing the start-off and maintaining compliance with the various regulatory control, which includes competition regulation could be burdensome for GM entrepreneurs. (2) The green-based products since costlier can be less attractive compared to non-green-based production. Hence, these drawbacks can hamper the GM competition and reduce its marketability among consumers.

Therefore, to overcome the risk, firms usually need to cooperate or collaborate on sustainability initiatives with their competitors, which in principle may involve anti-competitive behaviours that are prohibited by CLP. GM enterprises often engage in anti-competitive arrangements or strategies such as cartels or price-fixing strategies to reduce competition and maintain their market share. Since GM is often a result of some innovation by way of research and development investment, practice restriction in its distribution and product licensing to protect rights or maintain its market share (Faguy, 2021). Thus, GM development would benefit if allowed some leeway by way of exceptions for green-based policy goals into merger reviews, incentives or moratoriums by way of government policy or exemptions to recognise its contribution to the environment as an essential step for their progress.

The symbiosis between SDG and Competition Law Principles

The concept of environmental sustainability is considered integral and intersectional in both competition and consumer protection law (UNCTAD, 2022). The United Nations SDG 2015 ‘universal call’ aimed to protect the planet so all people to enjoy peace and prosperity (U.N., 2017). The soul of the SDG masterplan is overcoming “climate action”, reducing global warming (SDG, Goal 13) and protecting the planet from further degradation through sustainable management of its natural resources (UN, 2015). The World Commission on Environmental Development (1978) notched that sustainable development only occurs when “meeting the needs of the present without compromising the ability of the future generations to meet their own needs” (Yazdanifard & Mercy, 2011p.134). Hence, the competition’s market power is nevertheless interpreted from an economic perspective, with an emphasis on the organization or enterprise's ability to reduce output, raise prices, reduce quality, limit choices or suppress innovation. Whereby, the CL applied the economic concepts to analyse the markets within a legal process in each case depending on its circumstances (Whish & Bailey, 2015) for the protection of consumer welfare. The CL regulators in Europe and the United States principally assess and interpret ‘consumer welfare’ strictly within the economic terms that emphasise the factors such as quality, price and innovation (Reston, 2020) to measure its market competitiveness. The existential threat of Climate Change had now reimaged CL to be part of the solution and not be part of the problem (Holmes, 2020). Since consumer environmental welfare is indirectly connected to the biophysical effects of the products on the environment like the green products claims and environmental concerns about the product’s features (Suki, 2013). Such environmental concerns which were formerly regarded as non-economic, unquantifiable or marginalised are presently treated and assessed as an important consideration by both the consumer and the regulators. Furthermore, the renewed awareness of climate change and its acute physical effects has contributed to the possibility to measure its economic impact on climate change and the corollary of sustainability initiatives much clearer (Reston, 2020).

This process of reimaging the Competition Law goals towards achieving the SDG to fight climate change and global warming has developed a reason for a sustainable development strategy to merge the economic and ecological development factors for making policy decisions as well as constructing the standard required for environmental conservation for the current and future generations (Vandhana, 2013). The process results in synthesising a ‘sustainable’ policy to encompass both environmental as well as economic policies for promoting GM competitiveness. This development requires the architecture of the CL infringement, fault-finding approach and assessment to be broadened to inculcate environmental-based evidence from environmental experts (not economist or legal experts).
This calls for competition regulators to address GM as part of SDG for setting a standard for an environmental sustainability exclusion policy within the CLP. Since CLP is firmly intended to protect the process of competition to maximize consumer welfare, its assessment is technically grounded on its market power and the surrounding economic concepts (Whish & Bailey, 2015). Thus, GM outcome must be measured in terms of either consumer welfare or general well-being for pro-competitive consideration. Such an outcome requires the architecture of the ‘sustainability’ to be either recognised as an exception for pro-competitive or by way of an exemption policy under the CL. This requires an in-depth study of the GM’s market legitimacy and sustainability to assess its anti-competitive practices (for conducts such as cartelization, predatory pricing, discrimination, monopoly, or mergers) unlike a simple rule-based approach (Whish & Bailey, 2015). In other words, the exemption or exception is built upon the green market’s power, its related economic concepts, and its environmental characteristics to authenticate its sustainable character for endorsing its benefits.

The resulting predicament would be what’s considered good for the consumer economy is not necessarily considered good from the broader perspectives of consumers’ environmental welfare and well-being from the global SDG perspective. The biggest challenge in the reimagining of the consumer welfare standard for sustainability strikes when the Competition Bureau doesn't have the expertise to analyse an anticompetitive merger or agreement through the lens of an environmental, ecologist or conservationist specialist (Faguy, Y., 2021). The competition enforcer's lack of expertise consequently requires a change in the competition law doctrine as well as the governing institutions’ ideology. Such as the Competition Tribunal's mindset on the consumer welfare concept and economic efficiency yardstick to encompass environmental impact and the general well-being of the universal society.

**Concept of Sustainability and  Policy under the Competition Law**

**Sustainability Concept under EU Competition Law Policy**

The European Commission (EC), European Green Deal, 2019 specifically included the competition enforcers’ commitment to climate neutrality by 2050 and launched the ‘Competition policy brief’ (CPB) (EC, 2021). EU’s intensified response entails a concrete policy reform concerning State aid, antitrust and merger to aid businesses to achieve environmental goals without infringing the CL (EC, 2021). The European Union’s (EU) Green Taxonomy Regulation (GTR) developed a framework for applying the concept of sustainability activity and quantitative threshold measures to enable the balancing of sustainability benefits and anticompetitive effects. GTR allows an exemption for cooperation between competitors or collaborative efforts to sustain a fair market for green goods development and technology to encourage green innovation and GM growth (Doyle, D.H, 2021). CL firmly emphasised must contribute to green deals goals and cannot be against making Europe green (Vestager, 2020). That’s because CL’s role is not just to ensure effective competition and consumer welfare but presupposed to also improve innovation, quality of products and efficient allocation of resources which contributes to sustainable development (Comba, 2022). This public objective goes beyond the pure economic understanding of the consumer welfare doctrine that’s interpreted narrowly or simplified just competitive prices. Hence, SDG can be considered for exemption under Article 101(3) of the Treaty on the Functioning of the European Union (TFEU) to adopt a broader interpretation that goes beyond the economic-informed quantification of benefits. Article 101(3) TFEU since drafted broadly can adapt to the changing realities given the SDG policy (Dunne, 2020) and endorsement by the EC. Following this development, the Climate, Energy and Environmental Aid Guidelines (CEEAG) revised the General Block Exemption Regulation (GBER) provisions to aid green deals and to extend to new areas of industry and biodiversity to include technologies that deliver ‘green’ deals. Such as renewable, low-carbon hydrogen, and e-storage. Besides allowing ‘sustainability’ based joint production, purchasing agreements or standards to be considered for exemption under Article 101(3) TFEU if the benefits outweigh the restrictive effects on the competition of the products. This development encourages the business to replace or modify non-sustainable products with a sustainable-based component that would increase its quality or longevity to increase the value that customers ascribe to the products. Such as by replacing biodegradable or recyclable components like plastic with wood in toys or replacing recycled materials for clothes.
Hence, the adoption of GM is given positive support under the EU competition law policy.

4.2 Policy Option under Competition Act 2010 for Green Marketing and Sustainable Collaboration

Malaysia's commitment to the United Nations, SDG (UN,2030) initiatives is pursued by the National SDG Council chaired by the Malaysian Prime Minister Council to plan and monitor its implementation together Malaysian Economic Planning Unit (EPU) as the coordinating agency (EPU Portal, Malaysia). EPU and the SDG Council have initiated GM development to encourage Malaysian corporations to produce goods in an environmentally friendly manner and promote environmental consciousness among consumers to purchase green products. UN SDG encompasses three dimensions of sustainable development economic, social, and environmental. Nevertheless, the UN’s SDG strategy and approach require the involvement of both multidisciplinary and transdisciplinary levels across three dimensions economic, social and environmental (U.N.,2017). It has raised reasons for Competition Law and Policy (CLP) to play a role in promoting GM in Malaysia.

The Malaysian Competition Act 2010 (CA2010) and the Malaysian Competition Commission (MYCC)

(CCA 2010) regulates and controls the anti-competitive practices and activities among businesses in Malaysia. The CA 2010 in most parts mirror the EU competition law and policy entrenched in the TFEU.

The CA 2010, firstly, under Section 4(1) prohibits any anti-competitive agreements or arrangements between enterprises that entered vertically and horizontally if shown to have an object or effect to significantly prevent, restrict or distort competition in a market for goods or services. The term agreement in this prohibition includes both written or verbal agreement and severely forbids horizontal agreement or cartel which is deemed illegal per se. Cartel refers to agreements that fix, directly or indirectly a purchase or selling price or any trading conditions (such as share market, sources of supply, limit or control production, market outlets, market access, technical, technological development or investment) or bid-rigging (CA 2010). Secondly, Section 10(1) CA2010 prohibits any engagement among enterprises from engaging in any conduct amounting to an abuse of dominance in any market for goods or services. The term dominant refers to business or businesses that have significant power or share in a market that allows them to adjust prices, outputs or trading terms with no effective restraints from competition or potential competitors. An infringement under the CA 2010 in Malaysia is subject to a heavy financial penalty. Although the exact amount of the fine is dependent on the case’s seriousness, duration and impact on the market, the enterprises can be fined up to ten per cent of the worldwide turnover of its business (CA 2010)

and is liable for a fine of up to 10% of the worldwide turnover of their business. The exact amount of fine will be based on factors, including the seriousness, duration, and impact the infringement had on the competition and the market. GM businesses are often caught under this prohibition in Malaysia for engaging in any arrangements or strategies for price-fixing strategies or restrictive practices to reduce competition but to maintain their market share.

Nevertheless, Section 5 of CA2010 allows for certain anti-competitive agreements prohibited under the Section 4(1) exempted from the anti-competitive if the enterprise can prove firstly that it has significant identifiable technological, efficiency or social benefits directly arising from the agreement. Secondly, if the benefits are not possible without the agreement having the effect of preventing, restricting or distorting competition. Thirdly, if the detrimental effect of the competition agreement is proportionate to the benefits provided and finally if the agreement does not eliminate competition in respect of a substantial part of the goods and services. This proviso allows an enterprise to seek an ‘individual exemption’ or ‘block exemption’ (Section 6, CA2010) under Section 8, CA2010.

In addition, Section 10 (3) CA2010 allows an exemption for enterprises that has a reasonable
commercial justification or represent a reasonable commercial response to the market entry. Meanwhile Section 3(4) (b), CA2010 exempts from liability all activity pursued in the principle of solidarity like the EU legal system exclusively to fulfil a social objective. Such as services that are rendered as part of the state prerogative services or that are done in pursuance of a general economic interest. Such as that rendered during the Covid-19 pandemic for health-related vaccination or during an economic crisis. In other words, these involve conducts involving services or purchase agreements as part of social security or welfare functions for the people’s well-being with no economic gain or inclination.

How far this exemption proviso can be stretched to include sustainability-related agreements by providing exemptions for GM under the green or sustainable collaboration may depend on and involve specific government policy on the specific activity or agreements endorsed through any government directives or instructions for SDG in Malaysia. Since greening the competition contributes to achieving green deal goals. ‘Green’ cooperation and collaboration should be given adequate consideration and fair treatment to further develop. Their GM exemption policy can be potentially applied to several social-consumer-sustainable, environment-related conducts and activities.

In the Malaysian context, the most viable option for sustainability agreement relief from anti-competitive agreement green collaboration from anti-competitive infringement is by expanding the scope of the Section 5 CA 2010 exemption policy by encompassing sustainable benefit to offset competition by adopting the line of reasoning under the EU. The SDG adoption policy requires a broader interpretation set in the EU under TFEU Article 101(3) discussed above. Whereby, allowing the environmental protection requirements of GM to be integrated into the definition of efficiency from the perspective of new and innovation as well by endorsing its environmental benefit (i.e., reducing global warming and climate change) or sustainable nature of GM as contributing factor or pro-competitive towards the general well-being of consumer in the context of its social benefits and its innovation towards improving the sustainability aspect of the products. Whereby, if acceptable consider reducing waste and recycling as a contributory factor to product improvement and innovation. Such exemptions in consumer pricing agreements and retail conditions are considered necessary for giving fair treatment for GM’s fierce competition from non-green products which are faster, cheaper, and well-recognised among consumers must be considered. Similarly, agreements leading to the reduction in pollution, waste and other environmental disasters to the benefit of society and consumers in general well-being be considered in the assessment for infringement with appropriate state directives or state act exception policy. Nevertheless, such exemptions for GM must be legitimised and limited to entering cartel or price-fixing strategies only if its beneficial interest outweighs its impact on market competition. In case of abuse of dominance under its specific exemption criteria to avoid abusive conduct in the GM industry. However, since the notion of GM is itself complex and relatively untested, appropriate policy and criteria guidelines must be developed similarly to that development in the EU based on the CL and environmental law.

Conclusion
Consumers, businesses and policymakers’ awareness and initiative to scale the passage of acute damage and recovery initiatives by way of SDG policy is an important strategy for scaling climate change, global warming and its consequential damages to humans as well as the animal and environment requires GM to prosper. This development is seen as an attempt to reconcile competition law and policy with society and broaden the scope of consumer welfare to re legitimise its essential role for the social market economy (i.e., specifically the social side of the social market economy). However, the passage of this development must address the inherent challenges in legitimizing GM. The research identifies three key preliminary legitimacy issues that must be addressed in the endorsement of GM sustainability claims for exemption under the CLP. Prominently, the ‘Green Market’ definition and standard to eliminate ‘Green Washing’, Secondly, the factors applicable to quantify environmental sustainability to claim its related consumer well-being attributes. Thirdly, must bridge conceptual and legal boundaries between CL and Environmental Law (EL) to allow appropriate
exemptions for sustainable development policy. In this context, the competition authorities' first task to set the foundation for sustainability in CL is by allowing or interpreting greater weightage for sustainability. In addition, the factors in assessing the anti-competitive harm and impact on consumer welfare must incorporate the SDG universal call and stimulate the importance towards the environment and society. Competition law and environmental authorities must develop the regulatory environment for GM anti-competitive regulation and exemption with appropriate guidelines. Such guidelines submitted must be based on economic assessment, the science of the environment and law to differentiate greenwashing from genuine sustainability initiatives. An accurate examination of environmental effects in assessing consumer welfare is important to avoid the risk of endorsing exemption or pro-competitive policy unjustifiably for illegitimate reasons. The GM deserves fair treatment to compete with the appropriate exemption in the competitive open market since going green means pricey or involves costly start-off, and innovation, experimental stages. Therefore, GM requires necessary leeway for its survival and sustenance in the open market for collaborative efforts among GM entrepreneurs to endure the cost of educating, impressing a positive image of the GM pro-competitive benefits and environmental sustainability elements of GM on consumer welfare.

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