

## **Green Washing Corporate Sustainability and Responsibility for Tax Evasion**

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**Held From June 20 - 21, 2014 at Tinapa Business Resort, Calabar. Cross River State, Nigeria**

### **1.0. Introduction**

Business entities otherwise called the firm are creations of law. Apart from the firm being a legal creation under the laws of the land, its activities, behaviour and overall interaction with its peers and environment keep scholars engrossed in understanding how it evolves overtime. Indeed, some of these entities have succeeded, not only in bolstering their bottom line but also garnered the needed trust and inclusion of members of the community they operate. On the other hand, some other firms have unfortunately drawn the mistrust and suffered moral indignation from their host community due to perception of the brutal, cold and selfish manner in which they operate in the host community.

Whichever side of the divide the entity finds itself, its ability to rationalize its thoughts, undertake in-depth analysis for implementation of community focused activities underscores the mutual respect, co-existence and economic partnership it earns from the host community in the end. In the traditional sense of its establishment, maximal profit return is reward for the firm's efforts and sole focus. It however managed to branch out taking other contending goals into cognisance overtime.

The evolving environmental issues emanating from operations only takes the ill-prepared firm down as potentially damaging and irreversible actions or inactions may cause. Looking around Nigeria's business environment offers examples of damages arising from business activities and how they have impacted lives of their host. A case in point is the activities of oil Companies in the Niger Delta which has led to hues and cries from the host communities over the decades. A reprisal from such activities by the host communities has sometimes led to paralysis of company operations, kidnappings and even pipeline vandalism.

### **2.0 Corporate Sustainability and Branding**

To do justice to this paper, it is perhaps worthy to trace the historical evolution of Corporate Social Responsibility (CSR) *a la* its development in modern times. Its idea could be said to have birthed before Christ "In ancient Mesopotamia, around 1700 BC, a king introduced a code

in which builders, innkeepers or farmers were put to death if their negligence caused the death of others, or major inconveniences to local citizens”<sup>i</sup>

In modern times however, it has been argued that Corporate Social Responsibility has become subsumed by Corporate Sustainability issues which is a broader term in describing the issues the firm is confronted with in today’s world. Others have argued that Corporate Sustainability as we know same today is a subset of CSR. Whether one term supersedes the other or the lines have become blurred paving way for either term to be used interchangeably is not the purpose of this paper. We shall therefore proceed to discuss Corporate Sustainability in the context of firms’ business processes and enhancement of both its economic and organic nature.

By Corporate sustainability, we mean a business approach that creates long-term consumer and employee value by creating a "green" strategy aimed toward the natural environment and taking into consideration every dimension of how a business operates in the social, cultural, and economic environment. It also formulates strategies to build a company that fosters longevity through transparency and proper employee development.<sup>ii</sup>

In other words, it involves processes set up to ensure the adoption of a set of ethical codes that serve as beacons in ensuring that the environment is well catered for and business operation adequately addresses the concerns of other stakeholders other than the Investors/ owners of the business.

It is interesting that the firm must ponder and bother about its interactions with its environment as it may sometimes wish to beg the question why it should even bother to do so. Answers to this state of inquisition are not farfetched. This is due to the fact that companies, especially, the large and multinationals care about their brand. They believe that they are in business for the long haul and so must perfect and factor in basic elements critical to their survival both here and in the distant future. Branding is as important in marketing as the marketing mix as the name, term, sign, symbol or design or combination of same can go a long way in identifying goods and services of a seller or group of sellers and also differentiates one from the other.<sup>iii</sup> It therefore follows that Branding and Corporate Sustainability are mutually reinforcing as the latter is capable of providing a positive spin off effect on the former.

### **3.0 Green Washing and Branding Issues**

Corporate organisations are bound to outdo one another. Sometimes competition is so fierce that it is winner takes all. This perhaps leads companies to engage in antics and practices that do not reflect best practices in the environment they find themselves. One of such practises is

one called Green Washing which “tries to convince people that you are doing something which is good for the environment by being involved in small, environmentally friendly initiatives, especially as a way of hiding your involvement in activities which are damaging to the environment”<sup>iv</sup>. Compelling as the term may mean, not everyone thinks that companies green wash intentionally.<sup>v</sup> The term Green Washing in the context of this paper is not narrowed down to just the environmental angle alone but to highlight in the real sense, the activities of firms which wilfully plan to substitute CSR as a hedge to evade taxes.

Every year, taking a look at the budget of firms for CSR and image laundering activities, we find figures running into billions of naira being budgeted and spent for reasons which are sometimes deeper than the eyes can see. While it is agreeable that organisations must be seen to be socially responsible to the environment where they operate, it does not augur well when spending on these activities are “bloated” and superficial with the aim of reducing the taxes payable by the firm in the long run.

### **3.1 Efforts to Check Green Washing**

As Green Washing continue to aim at influencing consumer habits via information about “green products” and its positive effects on a firm’s product, efforts aimed at counteracting these practises with a view to restoring consumer confidence and thereby stopping green washing, where possible continues to evolve. One of such measures is “Green Marketing as a Countermeasure”<sup>vi</sup> with Terrachoice’s “Seven Sins of Greenwashing” (2009) employed in calling out or identifying green claims made by companies only capable of tentatively enhancing the potential positive spin off such company stands to garner.

They are summarised thus:

- The “Sin of Hidden Trade-off” is present when an organisation only states the green aspect of a single product hiding the other attribute that is not green. For instance, paper companies tout their recycle practices without drawing attention to their manufacturing actions which impacts on the environment such as air and water pollution.
- The “Sin of no proof” is discovered when veracity of the firm’s green claim cannot be proven through extra information given on the said product or through certification of label.
- The “Sin of vagueness” is committed where a firm’s green claim is so vague that a consumer cannot understand what actually is behind such a claim and can easily be

misled. Famous instances in this respect is when products are declared “Chemical free” or “Toxic free”. It is hardly true to find any solid matter that poses such attributes.

- The “Sin of Worshipping Wrong labels” is committed when a product, either through words or images, certifies a label of a third-party environmental group which does not exist in reality.
- The “Sin of Irrelevance” is committed when a green claim is promoted even when veracity of same on its environment friendliness has been legally banned.
- The “Sin of the lesser of two evils” is committed when green claims are ascribed on a product even though the product itself is harmful to the environment an example of which is green insecticides.
- The “Sin of fibbing” is committed when it is obvious of the falsehood of a green statement alluded to a product. An instance of same is shampoos claiming to be “100% organic” yet certification leading to its veracity is missing from same.

#### **4.0 Tax and the Moral Burden of Corporate Sustainability**

To do proper justice to this aspect of the paper, it is perhaps cogent to define tax and various aspects that makes same an impossible assignment to be wished away. In the loose sense of the word, a tax is a charge imposed through the instrumentality of the state with a view to establishing and funding same for the common good and benefit of all therefrom. Further explained, it is “a compulsory contribution to the support of government levied on persons, property, income, commodities, transaction and so on”.<sup>vii</sup> It can also be described “as money to be paid by people or businesses to a government for public purposes.”<sup>viii</sup> “It is a payment in return for which no direct and specific quid pro quo or benefit is rendered to the payer”.<sup>ix</sup>

In all of these definitions, certain features underline and further elucidate the nature of a tax. These features include:

- A Charge/payment
- Benefit(s) to be derived is not directly ascribable to payer
- It is paid to/received by government
- It is mandatory
- It is a creation through the legal instrumentality of law

It is pertinent at this juncture to stress that taxes are no longer so-called if the axiom of non-direct beneficial relationship between the payer and government is violated. In other words, a firm that cares so much about its community and operations as to give same, through self-funding, a brand new road cannot be said to have paid government its tax. Same can also be ascribed to monies agreed and collected by the community in which the firm is involved.

In dispensing with its Corporate responsibility, the firm sees itself as giving back to the community they have taken so much from and have also impacted positively and/ or otherwise during operations. It is the act of “demonstrating values of honesty, responsibility and equality as well as show an ongoing concern for and contribution to the well-being of the communities in which they operate. In other words, organisations should be “good corporate citizens”<sup>x</sup>.

### **5.0 Tax Evasion and Criminality Issues in Green Washing**

A lot of persons and organisations have gotten it wrong when they enter the economic and accounting argument that they do not owe the government through the tax man a penny more than they have already paid. Indeed, the law allows the firm to arrange its affairs, within provisions allowable under the law, to pay over to government just what is due. However, the same firm sometimes finds itself walking the thin line between tax avoidance as mentioned here and tax evasion which, simply put, amounts to breaking the law.

It therefore comes as little surprise to find a discourse such as this relating one misleading aspect of operations a company could find itself with another capable of landing the firm in hot waters with the law using the veil of Corporate Sustainability.

Tax evasion as this paper has stated is the process of arranging the affairs of the firm in such a manner as to conceal and ultimately fail to pay over taxes due to government. “It is an act in contravention of the law whereby a person who derives a taxable income either pays no tax or pays less tax than he would otherwise be bound to pay. Tax evasion includes the failure to make a return of taxable income or the failure to disclose in a return the true amount of income derived.”<sup>xi</sup>

### **6.0 Cost of Evasion vs Compliance**

In my presidential address delivered at the Annual Tax Conference of The Chartered Institute of Taxation of Nigeria held recently in Uyo, Akwa Ibom State, I stressed the importance of compliance over compulsion to pay taxes by the government. This is even more so as the cost of avoidance of compliance gets higher and practical cases abound. In recent reports, it is said

that non-compliance with the host of new regulations covering all aspects of financial services has become a serious risk for firms. The price of getting compliance wrong is getting larger as headline-grabbing fines in both the United States and United Kingdom recently have demonstrated. Surely firms want to avoid being hit with fines such as the ones handed to the likes of Coutts, Credit Suisse, and Greenlight Capital. One way to manage that is to treat compliance issues as a risk category just like credit or market risk, for example. Risk officers need to understand the risk of non-compliance and assess their firms' performance in compliance as part of the bigger risk management picture.

Tax evasion is a criminal offence punishable by imprisonment and drivers of Corporate Sustainability must not be found using same as a vehicle to Green Wash thereby failing to make necessary tax returns at stipulated periods or fail to disclose in a return the true amount of tax payable. Recently in the U.S District Court in Chicago, the billionaire creator of Beanie Babies, TY Warner would serve two years of probation following guilty pleas to a tax evasion charge. Of note is the fact that some social and sport celebrities have in recent times been found guilty of tax evasion.

## **7.0 Tax Evasion, Corporate Sustainability and Image of the Firm**

It is salient to note that, Tax Evasion, Corporate Sustainability and Corporate Image in the context of this paper are mutually reinforcing. I say so because of these reasons:

- ❖ Every organization exists and conducts its business within the laws of the land;
- ❖ Tax Evasion is a contravention of the law;
- ❖ Corporate Sustainability is the pivot of survival of every firm in today's dynamic and contemporary environment;
- ❖ An organisation's goodwill and corporate image does not depend only on its level of CSR but on its prompt and accurate payment of taxes.

In summary, I would borrow from the words of the holy book, the bible where Samuel said to King Saul in 1<sup>st</sup> Samuel 15 vs 22, .....to obey is better than sacrifice.... Tax payment cannot be substituted for CSR, much in the same way that an organisation must be socially responsible to be relevant in business.

## **8.0 Conclusion**

Corporate Social Responsibility fused with Corporate Sustainability unravels the increasing need of firms to be relevant in the environmental discourse subsisting within the community they find themselves. While these are genuine issues befitting of contemplation by the firm, to lose same in a disdainful manner through the concept of Green Washing is not only unworthy of such firm but also forebodes grave danger for the firm also as a taxpayer.

It must also be said that the main theme of this event could not have come at a more auspicious time as the “Inclusive Growth” mantra of the Federal Government is served by the support frameworks and models that would be outlined by other Speakers at this event. This would go a long way in deepening the financial system and also giving economic agents broader opportunity of becoming economically empowered leading to growth and ultimately development.

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<sup>i</sup> Brass, 2004, The Centre for Business Relationships, Accountability Sustainability and Society (BRASS), “History of Corporate Social Responsibility and Sustainability”, URL: [http://www.brass.cf.ac.uk/uploads/History\\_L3.p](http://www.brass.cf.ac.uk/uploads/History_L3.p)

<sup>ii</sup> Wikipedia, 2014 [http://en.wikipedia.org/wiki/Corporate\\_sustainability](http://en.wikipedia.org/wiki/Corporate_sustainability)

<sup>iii</sup> <http://marketing.about.com>

<sup>iv</sup> Kent M. S. et al (2007); The Debate over Corporate Social Responsibility as an International Strategy. Contributions to Economics”, Physica Verlag, 2008, pp. 28-29

<sup>v</sup> Laufer, Williams S. Corporate Bodies and Guilty Minds: The Failure of Corporate Criminal Liability, University of Chicago Press

<sup>vi</sup> Paetzold, Kolja, Corporate Social Responsibility (CSR): An International Marketing Approach.: Diplomacia Verlag

<sup>vii</sup> Shorter Oxford English Dictionary Vol. 11, p. 2136

<sup>viii</sup> The Oxford Advanced Learners Dictionary (Fourth Edition)

<sup>ix</sup> Dalton (1964:61)

<sup>x</sup> May, Steven K. Debate over Corporate Social Responsibility; Oxford University Press, Incorporated

<sup>xi</sup> Asprey Committee (1975), The Report of Taxation Review Committee, Australia