

Towards a sustainable consumer law: A preliminary assessment of the French example for Chile

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A. Why traditional consumer law falls short in the face of the climate crisis: A comparative perspective to inspire a Chilean proposal

In Chile, the widely circulated image of the ‘Atacama Desert clothing cemetery’ depicts the massive accumulation of unsold or discarded garments in the country’s north, where tonnes of fast fashion and second-hand clothing are dumped annually.¹ It starkly illustrates the consequences of consumer law’s failure to integrate sustainability considerations.

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1 Nicole Iporre, ‘El desierto del norte chileno que se convirtió en el basurero de la ropa usada’ [The desert in northern Chile that became a dumping ground for used clothing], *La Tercera* (Santiago, 13 June 2023), <https://www.latercera.com/tendencias>

This failure reflects the traditional conception of consumer law as a set of rules addressing the structural imbalance between consumers and suppliers. The consumer is seen as the weaker party, justifying state intervention to protect their freedom of choice and reinforce private autonomy. Chilean consumer law largely adheres to this classical view. Although some provisions mention environmental protection, they are limited in scope and rarely enforced – highlighting the need to modernise the legal framework.

This classical conception does not recognise environmental protection or sustainability as autonomous legal interests. By prioritising individual choice and transactional fairness over environmental considerations, this framework implicitly legitimises high-consumption lifestyles, thereby reinforcing unsustainable patterns of production and consumption. Consumer law emerged alongside the rise of consumer society, where consumption beyond basic needs became central to social and economic life. As Howells, Ramsay and Wilhelmsson note,² consumer law reflects the structure of consumer society. Consequently, its ecological implications have remained outside the field's normative reach. The focus has been on protecting consumers' so-called basic rights,³ based on the liberal ideal of rational choice. Yet the climate crisis has shown, this model is insufficient: consumption accounts for nearly two-thirds of global greenhouse gas emissions.⁴

/noticia/el-desierto-del-norte-chileno-que-se-convirtio-en-el-basurero-de-la-ropa-usada/NLUEXOSIAFHCHPO54KXXIKYPHM/); La Tercera, 'El desafío de transformar el desierto de ropa en el norte de Chile' [The challenge of transforming the clothing desert in northern Chile], La Tercera (Santiago, 12 February 2025) <https://www.latercera.com/laboratoriodecontenidos/noticia/el-desafio-de-transformar-el-desierto-de-ropa-en-el-norte-de-chile/NGHA3CAF MJC3HLGVEVXGRRB5SY/> (both last accessed 30 August 2025).

- 2 Geraint Howells/Iain Ramsay/Thomas Wilhelmsson, 'Consumer Law in its International Dimension', in Howells/Ramsay/Wilhelmsson (eds.), *Handbook of Research in International Consumer Law*, 2nd ed. (2018), p. 1, 4.
- 3 The basic consumer rights, as first articulated by President John F. Kennedy in his 1962 speech to the U.S. Congress, are: the right to safety, the right to be informed, the right to choose, and the right to be heard.
- 4 Diana Ivanova et al., 'Quantifying the potential for climate change mitigation of consumption options' (2020), 15, *Environ. Res. Lett.*, p. 1, 1–2. Adding some statistics, the Summary for Policymakers of the *Global Resources Outlook 2019* states that 'the extraction and processing of natural resources accounts for more than 90 per cent of global biodiversity loss and water stress impacts'. *Global Resources Outlook 2019: Natural Resources for the Future We Want* (International Resource Panel, United Nations Environment Programme, Nairobi, March 2019)(Summary for Policymakers), <https://wedocs.unep.org/bitstream/handle/20.500.11822/30797/EGR2019.pdf> (Last accessed: 30 August 2025). More recently, it has been noted that consumption-based

Building on this diagnosis, current consumer law aims to empower the weaker contractual party by strengthening their autonomy and market access.⁵ Terryn argues that this results in ‘unsustainable consumer law’:⁶ a system centred on consumers as passive holders of economic rights positioned at the end of the supply chain.⁷

A shift towards a more systemic and holistic approach is therefore urgent. One that addresses the social, economic and environmental consequences of consumption. A sustainable consumer law may still protect autonomy, but only if it integrates intergenerational considerations. In this view, autonomy means the right to choose only insofar as those choices do not impair others’ well-being or hinder regenerative resource use.⁸ This requires not only the transformation but also the redefinition of consumer rights. As Mak and Terryn argue, sustainability policies must be translated into concrete legal norms.⁹ Micklitz goes further, calling to wipe the slate clean and design a ‘new consumer law’.¹⁰

In jurisdictions like Chile, where sustainable consumer law remains incipient, the focus is mainly on promoting greener alternatives without regulatory incentives to reduce consumption or encourage less harmful behaviour. The social dimension, such as access to essential goods and the labour conditions of production, also remains largely neglected.

CO₂ emissions are calculated by subtracting the emissions embedded in exports from a country’s production-based emissions and adding those associated with imports. This measure attributes responsibility for emissions to domestic consumption rather than territorial production, offering insight into whether a country is a net importer or exporter of CO₂ emissions. It includes emissions from fossil fuel combustion and industrial processes, but excludes land-use change, deforestation, and international aviation and shipping. See Hannah Ritchie and Max Roser, ‘Consumption-based CO₂ emissions’ Our World in Data (2024) <https://ourworldindata.org/grapher/consumption-co2-emissions> (last accessed: 30 August 2025).

5 Evelynne Terryn, ‘Can Consumer Law Become Sustainable?’, in Hans Micklitz/ Christian Twigg-Flesner (eds.), *The Transformation of Consumer Law and Policy in Europe* (2023), p. 159, 162.

6 Terryn (2023), p. 186.

7 ‘*Homo oeconomicus passivus*’ Norbert Reich/ Hans Micklitz, ‘Economic Law, Consumer Interests and EU Integration’, in Norbert Reich et al., *European Consumer Law*, 2nd ed. (2014), p. 1, 6.

8 Terryn (2023), p. 186.

9 Vanessa Mak/Evelynne Terryn, ‘Circular Economy and Consumer Protection: The Consumer as a Citizen and the Limits of Empowerment Through Consumer Law’ (2020), Vol. 43, JCP, p. 227, 228.

10 Hans Micklitz, ‘Squaring the Circle? Reconciling Consumer Law and the Circular Economy’ (2019), JECML, p. 229, 229.

These concerns have begun to shape European consumer law, where sustainability is becoming a transformative domain.¹¹ The EU has developed a robust sustainable consumption agenda, with France at the forefront.¹² In contrast, such developments are only beginning in most developing countries, like Chile. Given the urgency of the climate crisis, European experience offers valuable lessons, particularly in approaches that have proven to be effective or influential. Chile has previously drawn selectively on European legislation, such as French provisions, not only for their prestige or, as here, for their pioneering character, but also because these jurisdictions share the same civil law tradition.

B. Methodological approach and article structure

This article presents a preliminary comparative study which is intended to be expanded and deepened in future research. It offers a diagnostic step toward a more substantive analysis that may support proposals for the development of Chilean consumer law. Specifically, this study undertakes a *micro-comparison*¹³ aimed at fostering a ‘better understanding and improvement of national law’.¹⁴ The objective is to extract lessons that may

11 Mateusz Grochowski, ‘European Consumer Law after the New Deal: A Tryptich’ (2021), Vol. 39, YB of Eur. Law, p. 387, 387.

12 Within the framework of EU law, Member States have progressively incorporated Union guidelines on sustainable consumption. France, however, has emerged as the leading jurisdiction, going beyond EU proposals in this field. Evelyne Terryn, EU Consumer Law and Human Rights (2023), pp. 173–174. Since 2014, the *Loi n° 2014–344 relative à la consommation* (‘Loi Hamon’) has amended the *Code de la Consommation* to include, inter alia, requirements on the availability of spare parts for repairs. Despite its numerous amendments, the law did not introduce explicit prohibitions on planned obsolescence; Article 8 merely mandated the government to submit a report on the issue, delivered in April 2017: République Française, *Rapport au Parlement sur l’obsolescence programmée* (April 2017), <https://www.vie-publique.fr/sites/default/files/rapport/pdf/174000268.pdf> (last accessed: 30 August 2025); *Loi n° 2014–344 du 17 mars 2014 relative à la consommation* (2014) JORF n° 0065, 18 March 2014, p 5400 <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000028738036> (last accessed: 30 August 2025).

13 Konrad Zweigert/Hein Kötz, *An Introduction to Comparative Law*, 3rd ed. (1998), p. 184.

14 René David/Camille Jauffret-Spinosi, *Los grandes sistemas jurídicos contemporáneos* [The major contemporary legal systems], trad. Alfredo Sánchez/Jorge Sánchez (2010), p. 29.

serve either as inputs for the construction of new regulatory proposals or as the basis for a reinterpretation.

To this end, this article adopts the functional method.¹⁵

It is widely acknowledged that regardless of the motivation, the guiding principle of functionalism remains constant: only institutions that serve the same function are usefully comparable. In this view, *function* acts as the *tertium comparationis* – the common point of reference for structurally and conceptually distinct legal institutions.¹⁶ This assumption of comparability is rooted in a ‘presumption of similarity’ or ‘universalism’, which posits that all legal systems face fundamentally similar problems and arrive at functionally equivalent solutions through diverse legal means.¹⁷ Hence, a functional comparative study must begin with a question framed in non-system-specific, functional terms.¹⁸

This functional method aligns with the traditional structure of comparative legal research, as outlined by Husa¹⁹ in six steps: (i) formulation of a functional research question, (ii) construction of the comparative framework by identifying the jurisdictions and areas to be compared, (iii) description of the legal institutions under comparison, (iv) enumeration of similarities and differences, (v) analysis and explanation of those findings, and (vi) evaluation of the results of the comparison. This structure guides the analysis that follows.

C. Sustainable consumer law: A micro-comparison between France and Chile

I. Two preliminary clarifications on the concept of sustainable consumer law

Before proceeding with the micro-comparative analysis, two preliminary clarifications are required.

15 Ralf Michaels, ‘The functional method of comparative law’, in Mathias Reimann/ Reinhard Zimmermann (eds.), *The Oxford Handbook of Comparative Law* (2006), p. 339, 342.

16 Zweigert/Kötz (1998), p. 34.

17 Ibid p. 32.

18 Ibid p. 36.

19 Jaakko Husa, *A new introduction to comparative law* (2015), p. 140.

First, it must be stated that consumer law does not fit neatly within the traditional boundaries of private law. Rather, it represents a clear manifestation of the crisis of the *summa divisio*. Indeed, it is now possible to argue that consumer law constitutes an autonomous legal discipline, with its own core, foundations, principles, and essential characteristics. Among these, its interdisciplinary nature stands out, as it brings together elements of both private and public law within a single normative framework.²⁰ A telling example is provided by Chile's Law No. 19.496 on the Protection of Consumer Rights, which operates as the general statute of consumer protection. This Act encompasses a wide variety of provisions: contractual compliance (Article 12, which obliges suppliers to respect the terms and conditions under which goods or services were offered), the control of unfair terms (Articles 16 et seq), regulation of the state agency in charge of enforcement (Articles 57 et seq), and procedural rules for both judicial and administrative redress. Clearly, this body of law demonstrates how consumer protection gathers, within a single normative framework, provisions that belong to both private and public law.

Consumer law thus operates in a domain where autonomy is both regulated and protected and where public law intersects with broader aims of justice. This interaction between public and private norms supports what may be referred to as a binary perspective – one that recognises the 'dual nature' of consumer law.²¹ In our view, this dual nature becomes even more evident in what has come to be referred to as sustainable consumer law, as it entails the integration of a supra-individual, and even public interest, namely: the protection of the environment.

Second, in relation to the concept of *sustainable consumer law*, this study closely follows the ideas proposed by Terryn. According to her, sustainable consumer law requires a more systemic and holistic legal approach, one that takes into account not only the economic repercussions of consumption, but also its social and environmental dimensions.²² While such an

20 María Elisa Morales, 'El lugar del Derecho del Consumo en la *summa divisio* de las disciplinas jurídicas' [The place of consumer law in the *summa divisio* of legal disciplines], in Pamela Mendoza/María Elisa Morales (dirs.), *Estudios de Derecho Privado. II Jornadas Nacionales de Profesoras de Derecho Privado* [Private Law Studies. II National Conference of Women Professors of Private Law] (2020), p. 549, 557–558.

21 Ewoud Hondius, 'The Innovative Nature of Consumer Law' (2012), Vol. 35, JCP, p. 165, 168–170.

22 Terryn (2023), p. 186.

approach may continue to safeguard rights associated with consumer self-determination, it must do so within an intergenerational and intragenerational perspective. As Terryyn notes, the right to make consumption choices should be preserved only insofar as those choices do not interfere with others' ability to lead a good life, nor with the sustainable and regenerative management of natural resources.²³

When considered as a whole, these clarifications provide the conceptual foundation for the micro-comparative analysis. The present study sets out to demonstrate that recognising consumer law as an autonomous and hybrid discipline underscores its capacity to integrate environmental protection as a legally protected interest, traditionally addressed within public law. A sustainable consumer law, therefore, must involve a reconfiguration of classical categories, ensuring that consumer rights are exercised in ways that neither compromise the ability of others to live a good life nor undermine ecological integrity. These considerations will guide the subsequent comparison, the aim of which is to evaluate whether the regulatory frameworks of France and Chile embody this shift towards a consumer law that is both protective and transformative.

II. Formulating the functional research question

The research question is therefore decisive, as it defines both the object and scope of the comparison.²⁴ A cautious and well-delimited question helps avoid overambitious designs that risk superficial results or a lack of understanding of the foreign legal institutions under review.²⁵

Building on this methodological premise, in this study, we follow a micro-comparative approach, understood as a comparison focused on specific legal problems rather than entire legal systems.²⁶ Accordingly, the research seeks to address the following question: How do the French and Chilean Systems regulate sustainable consumer law? Within this framework, the analysis will focus on three specific areas: the right to information, the reparability of durable goods, and advertising.

23 Ibid p. 186.

24 María Elisa Morales, *Derecho Comparado. Una primera aproximación* [Comparative law. A first approach] (2025), N° 51, *Revista de Actualidad Jurídica UDD*, p. 147, 157.

25 Husa (2015), pp. 142–143.

26 Ibid p. 145.

III. Construction of the comparative framework: Chile and France

This study is being conducted by Chilean scholars in Chile with the objective of developing a future proposal to enhance Chilean consumer legislation. The study begins with an examination of the Chilean legal system as the primary point of comparison. In accordance with the prevailing tendency in Chilean consumer and private law, the second system selected is of European origin – France. This system offers a particularly advanced example of sustainable consumer law, combining the implementation of key EU directives with ambitious domestic initiatives. France has notably accelerated its regulatory framework since 2020 through the *Loi Anti-gaspillage pour une économie circulaire* (AGEC) and the *Loi Climat et Résilience* (LCR), which together illustrate a proactive approach to integrating sustainability into consumer protection.

France was selected not only due to its regulatory advancement in this area, but also because it offers a particularly suitable comparator for Chile. Both countries share a civil law tradition, and Chilean law has been historically shaped by French legal influence, beginning with the Civil Code.²⁷ This legal compatibility enables more meaningful comparative insights than would be possible with jurisdictions from other legal families. This historical connection makes France a particularly illuminating case through which to observe how sustainability has progressively reshaped European private and consumer law.

Sustainability entered the agenda of European contract law as early as 2004, when the *Manifesto on Social Justice in European Contract Law* declared that ‘it is important to align the general principles of social justice governing the market order with rules designed to protect public goods, such as a healthy environment’.²⁸ Two decades later, private law is increasingly viewed as a space for transformation, with sustainability emerging as a new normative domain.²⁹

27 Gerardo Cafferla/Rodrigo Momberg/María Elisa Morales, ‘Legal transplants: A case study of private law in its historical context’, in Mathias Siems/Po Jen Yap (eds.), *The Cambridge handbook of comparative law* (2024), p. 453, 456.

28 Study Group on Social Justice in European Private Law, ‘Social Justice in European Contract Law: a Manifesto’ (2004), Vol. 10 N° 6, *Eur. Law J.*, p. 653, 666.

29 Grochowski (2021), p. 387. See: Ralf Michaels/Veronica Ruiz Abou-Nigm/Hans van Loon, *The Private Side of Transforming our World UN Sustainable Development Goals 2030 and the Role of Private International Law*, 1st ed. (2021).

Since 2008, the European Union has pursued a coherent strategy on sustainable consumption, aligned with UN initiatives. Key reforms include the extension of the Ecodesign Directive (2009), revisions of the Ecolabel Regulation (2009) and the Eco-Management and Audit Scheme Regulation (2018), as well as policies on green public procurement, the Roadmap to a Resource Efficient Europe (2011), and the Eco-Innovation Action Plan (2011).³⁰

More recently, EU consumer law has placed sustainability at its core through new legislative instruments. Regulation (EU) 2024/1781 introduces ecodesign requirements to ensure product sustainability throughout the lifecycle. Directive (EU) 2024/825 supports the green transition by improving consumer protection and information mandating disclosures on product lifespan, reparability, and protection against greenwashing. Directive (EU) 2024/1799, the ‘Right to Repair Directive’, promotes repair as a consumer right. Together, these developments mark a shift towards integrating environmental protection as a legal interest in EU consumer law.

Within this broader framework, France stands out for going beyond EU-level proposals in sustainable consumption.³¹ Since 2014, the *Loi Hamon* (Law No. 2014–344) has required information on spare part availability in the *Code de la Consommation*. The *AGEC Law* (*Anti-Gaspillage pour une Économie Circulaire*) later introduced reparability and durability indexes for electronic devices. Meanwhile, the *Grenelle 2 Law* (Law No. 2010–788), updated through 2021, mandates carbon footprint labelling on products to involve consumers and businesses in climate action.³² The *Climat et Résilience Law* (Law No. 2021–1104) further strengthened this framework by adding Articles L541–9–11 to the *Code de l’Environnement*, establishing an environmental impact label for goods and services.

In short, both EU-level reforms and the particularly advanced French case focus on two key areas: the right to information – understood to

30 Elias Van Gool/Anaïs Michel, ‘The New Consumer Sales Directive 2019/771 and Sustainable Consumption’ (2021), *Journal of European Consumer and Market Law*, p. 1, 2.

31 Terryn (2023), pp. 173–174.

32 Comisión Económica para América Latina y El Caribe, ‘Metodologías de Cálculo de la Huella de Carbono y sus potenciales implicaciones para América Latina’ [Carbon Footprint Calculation Methodologies and their Potential Implications for Latin America] (2010), <https://repositorio.cepal.org/server/api/core/bitstreams/5475cea4-6e9d-4a76-841b-b71a13b7ac37/content> (last accessed: 29 June 2025).

include advertising and the prohibition of greenwashing – and the reparability and durability of consumer goods.

IV. Comparative functional analysis of consumer-information duties and product durability/repairability in France and Chile

1. France

To clarify the analysis, the discussion of France is divided into two parts: first, an overview of the substantive legal framework and key legislative initiatives, and second, an examination of the mechanisms for enforcement and their projected effectiveness.

a) The French approach to sustainable consumer law

France is widely recognised as a frontrunner in sustainable consumer law. As Terryn notes, the country has gone beyond EU requirements, setting more ambitious standards and integrating sustainability more deeply into its national legal framework.³³ France's approach is structured around several key legal instruments. From the perspective of consumer law, the most relevant are the *Loi Anti-Gaspillage pour une Économie Circulaire* (AGEC)³⁴ and the *Loi Climat et Résilience*.³⁵

The AGEC Law aims to shift the French economy from a linear to a circular model by eliminating waste and pollution from the design stage, ending single-use plastics by 2040, combatting planned obsolescence, promoting repair and reuse, and improving consumer information. It applies across a wide range of sectors – including textiles, packaging, electronics, and construction – and to all goods sold in France. Among its innovative

33 Terryn (2023), pp. 173–174.

34 Loi n° 2020–105 du 10 février 2020 relative à la lutte contre le gaspillage et à l'économie circulaire (AGEC) [on the fight against waste and the circular economy], <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000041553759/>.

35 Loi n° 2021–1104 du 22 août 2021 portant lutte contre le dérèglement climatique et renforcement de la résilience face à ses effets (1) [combating climate change and building resilience to its effects], <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT00043956924>.

measures are the Repairability Index,³⁶ which scores how easy it is to repair a product on a scale of 1 to 10, and the Durability Index,³⁷ which indicates the expected lifespan of a product. Under this law, France also became the first country in the world to ban the destruction of new but unsold consumer goods.

The *Loi Climat et Résilience* builds upon this framework by introducing new environmental obligations and explicitly classifying greenwashing as a deceptive commercial practice under French consumer law. Article 10 of the law amends Article L121-2 of the *Code de la consommation*, broadening the definition of misleading practices to include:

1. False or misleading claims regarding the properties of a product or service – particularly in terms of environmental impact;
2. Misrepresentation of the scope of a brand's commitments – especially those related to sustainability.

Another major development is the introduction of the French Eco-Score, officially renamed Environmental Cost (*Coût Environnemental*)³⁸, developed under the *Loi Climat et Résilience* to provide consumers with standardised environmental impact data for clothing and textiles. Although

36 Décret n° 2020-1757 du 29 décembre 2020 relatif à l'indice de réparabilité des équipements électriques et électroniques [on the reparability index for electrical and electronic equipment], <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042837821>.

37 Décret n° 2024-316 du 5 avril 2024 relatif à l'indice de durabilité des équipements électriques et électroniques [on the durability index for electrical and electronic equipment], <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000049375942>.

38 Décret n° 2025-957 du 6 septembre 2025 relatif aux modalités de calcul et de communication du coût environnemental des produits textiles, JORF n°0209, 9 September 2025, texte n°84, arts D. 541-240-D. 541-245, <https://www.legifrance.gouv.fr/eli/decret/2025/9/6/TECD2515462D/jo/texte>, to be read together with *Code de l'environnement* art L541-9-11. The decree defines the environmental cost as a life-cycle impact score expressed in 'points of impact' (art D.541 – 240) and applies to all new or remanufactured textiles placed on the French market (art D.541 – 241). It requires that the cost be made available to consumers at the point of purchase and published on a government-designated portal with a detailed breakdown by impact category and a sustainability coefficient (arts D.541 – 242-243). Manufacturers, importers and other commercialisers must upload the data and are expressly responsible for its accuracy and timely updates (arts D.541 – 243(V)-244). This obligation complements *Code de l'environnement* art L541-9-11, which mandates visible, reliable and easily understandable consumer information on the environmental impacts of goods and services across their entire life cycle, to be provided by marking, labelling or another appropriate means.

it is still commonly referred to as the Eco-Score, the labelling system now displays a numerical value rather than a letter grade, with lower values indicating lower environmental impact.

The methodology is based on life cycle assessments (LCA) and incorporates sixteen environmental indicators, including greenhouse gas emissions, water and land use, energy consumption, and toxicity. In addition to technical factors, the system also evaluates practices such as sustainable agriculture, the release of microfibres, and marketing strategies that may encourage overconsumption – such as extremely low prices or excessive product variety. These criteria allow for differentiation between ultra-fast fashion, conventional, and ethical brands, even when production processes are similar.

The Environmental Cost labelling will apply to all apparel and textile products sold on the French market, including those marketed by foreign companies, with mandatory compliance expected by 2026. Although currently voluntary, brands may already submit their own scores to the public platform. Once enforcement begins, however, third parties will also be permitted to publish scores on a brand's behalf.³⁹ This creates a strong incentive for companies to report accurate data during the voluntary phase to avoid reputational or regulatory risks.

To support implementation, the French Ministry for Ecological Transition and Territorial Cohesion, in collaboration with other agencies, has launched Ecobalyse,⁴⁰ an open-source platform to help companies calculate and disclose their Environmental Cost.

39 Décret n° 2025–957 du 6 septembre 2025 relatif aux modalités de calcul et de communication du coût environnemental des produits textiles, JORF n°0209, 9 September 2025, texte n°84, art D. 541–244 <https://www.legifrance.gouv.fr/eli/decret/2025/9/6/TECD2515462D/jo/texte> 'Art. D. 541–244.-'. Any legal or natural person may calculate and communicate the environmental cost of a textile product reference, based on available data or data estimated from available data, in compliance with all the conditions defined in Article D. 541–243. 'If the manufacturer, importer or any other distributor determines the environmental cost of one of its textile product references themselves or updates it, then this environmental cost is the information used by any person voluntarily communicating on it. Where applicable, the latter shall update the environmental cost on which they previously communicated within a period not exceeding one month. 'Until 1 October 2026, this option shall only apply if the persons referred to in Article D. 541–243 have given their consent or published the environmental cost concerned on the portal referred to in Article D. 541–243'.

40 Calculez le coût environnemental de vos produits [Calculate the environmental cost of your products], <https://ecobalyse.beta.gouv.fr>.

In the same sector, France has more recently drawn further attention with the *Proposition de loi visant à réduire l'impact environnemental de l'industrie textile* (Proposed legislation to reduce the environmental impact of the textile industry).⁴¹ This draft law responds to the significant environmental damage caused by fast fashion (*mode éphémère*), which is characterised by mass production, rapid collection turnover, and aggressive pricing strategies. According to the French Environment and Energy Management Agency (ADEME),⁴² 'every year, more than 100 billion items are sold worldwide'.⁴³ Companies such as Shein exemplify this model by offering thousands of new designs daily at ultra-low prices, thereby fuelling the overconsumption of non-essential clothing.

This legislative proposal seeks to go beyond existing regulation. It would require e-commerce platforms to display prominent notices informing consumers of the environmental and social footprint of garments, their geographic origin, and the availability of repair or recycling options. It would also prohibit misleading commercial claims such as *livraison gratuite* (free shipping) and ban advertising for ultra-fast fashion brands across all media channels, including content by influencers.

While the substantive framework outlined above clarifies the functions and objectives of the French provisions, a separate analysis of their enforcement is essential. Distinguishing the mechanisms that ensure compliance highlights the institutional design and practical reach of the system, allowing the reader to see not only what the law requires but also how these requirements are implemented and monitored. This functional separation makes the comparative analysis more transparent and facilitates a clearer assessment of how similar enforcement tools might be adapted to other jurisdictions.

41 Available under: <https://www.legifrance.gouv.fr/dossierlegislatif/JORFDOLE000049284718/> (last accessed: 29 June 2025).

42 ADEME is a French agency which participates in the construction of national and local policies for ecological transition. See: <https://www.ademe.fr/en/frontpage>.

43 Proposition de loi n° 2129 (16^e législature), *Proposition de loi visant à réduire l'impact environnemental de l'industrie textile*, Assemblée nationale, déposée le 30 janvier 2024 [Proposed legislation to reduce the environmental impact of the textile industry], https://www.assemblee-nationale.fr/dyn/16/textes/l16b2129_proposition-loi.

b) Enforcement mechanisms and projections of effectiveness

These legal instruments are not only ambitious in their content but also enforceable, as the laws provide concrete mechanisms to ensure compliance. These include financial penalties, product restrictions, and clear obligations for businesses. Moreover, the strong public support for these regulations further enhances their potential effectiveness.

The bill's official explanatory memorandum⁴⁴ underscores that the most urgent pressure comes from ultra-fast-fashion imports, highlighting 'the rise of numerous so-called fast-fashion brands [...]. At the forefront of this express fashion, the Chinese ready-to-wear company Shein lists on average more than 7,200 new clothing models per day' and noting that 'Shein's turnover increased by 900 per cent in only three years'. By identifying Shein and similar Asian platforms as emblematic of an unsustainable, high-volume business model, the legislature frames the need for robust enforcement as essential to curb the environmental and social harms of this trade. This context explains the bill's strong focus on border measures and fiscal tools, paving the way for the stringent sanctions and financial penalties that follow.

Significantly, Articles 7 and 8 of the *Proposition de loi visant à réduire l'impact environnemental de l'industrie textile*⁴⁵ introduce a dual enforcement strategy that combines trade-border controls with fiscal disincentives. Article 7 requires the Government, within one year of promulgation, to report on 'the implementation of mirror measures at the borders of the European internal market to impose European sanitary, social and environmental standards on the import of *fast and ultra-fast fashion* textile products', and to consider 'reversing the burden of proof so that the exporter must demonstrate that its products were produced in conditions compliant with European standards, with particular vigilance regarding respect for human rights'. This mechanism would make access to the EU market conditional on verifiable sustainable production, shifting the evidentiary burden directly onto exporters. Article 8 complements this approach by creating a 'tax on small parcels of extra-European origin',

44 Available under: <https://www.legifrance.gouv.fr/dossierlegislatif/JORFDOLE000049284718/> (last accessed: 02 July 2025).

45 Proposition de loi visant à réduire l'impact environnemental de l'industrie textile, Sénat, Texte n° 136 (2024–2025) modifié le 10 juin 2025 [Draft legislation, aimed at reducing the environmental impact of the textile industry], arts 7–8, <https://www.senat.fr/leg/tas24-136.html>.

levied on 'every parcel under 2 kg sent to France by marketplaces, platforms or similar operators established outside the European Union and destined for individual consumers'. The tax is calculated per parcel and collected under the same procedures and penalties as value-added tax, with non-EU sellers required to appoint a VAT-registered representative in France to fulfil and guarantee payment obligations. Together, these provisions target the low-cost, high-volume import model characteristic of ultra-fast fashion and provide robust sanctions to ensure compliance.

The bill was passed in the *Assemblée nationale* by an overwhelming majority, with 337 votes in favour and only one against.⁴⁶ Although it still awaits validation by the European Commission, it is already seen as one of the most ambitious legislative responses in Europe to the environmental consequences of fast fashion.

Another compelling example is the *Loi Climat et Résilience*. The legislative process behind this law reflected a broad societal consensus, as it incorporated 146 proposals from the Citizens' Climate Convention (*Convention Citoyenne pour le Climat*⁴⁷). In my opinion, this participatory approach not only bolstered the legitimacy of the law but also reinforced its social acceptability and long-term enforceability.

In sum, France's legal framework is not only proactive and technically comprehensive, but also firmly committed to embedding sustainability into consumer law. By combining consumer empowerment, producer responsibility, and robust regulatory mechanisms, France provides a model worth examining in jurisdictions such as Chile.

2. Chile

At the level of public policy, Chile has adopted a 'Long-Term Climate Strategy 2050'.⁴⁸ Within this framework, one of the most significant legislative developments has been the enactment of the Framework Law on Climate

46 Sénat, 'Scrutin public n°303 – séance du 10 juin 2025, sur l'ensemble de la proposition de loi visant à réduire l'impact environnemental de l'industrie textile' [Vote No. 303 – Session of 10 June 2025, on the entire draft law aimed at reducing the environmental impact of the textile industry], <https://www.senat.fr/scrutin-public/2024/scr2024-303.html>.

47 See: <https://www.conventioncitoyennepourleclimat.fr/>.

48 Instrument designed by the Ministry of Environment. See: <https://cambioclimatico.mma.gob.cl/estrategia-climatica-de-largo-plazo-2050/descripcion-del-instrumento/>.

Change,⁴⁹ published in June 2022. Nevertheless, these policies have had little impact on Chilean consumer law. As will be discussed below, Law No. 19.496 on the Protection of Consumer Rights⁵⁰ contains only a few provisions that reflect an emerging concern with environmental matters, most of which have remained largely unenforced, despite being part of the legislation for several years.

Functionally, these provisions aim to safeguard consumers' access to truthful information and to promote sustainable market behavior. Article 3(b) establishes the basic right to 'truthful and timely information' about goods and services, including their price and relevant characteristics, but it does not explicitly mention environmental attributes or impacts, and there is no case law interpreting it in that sense. Article 3(d) goes further by expressly incorporating environmental protection within consumer rights, yet it has likewise not been invoked in judicial decisions.

Several other provisions seek to secure product durability and reliability. Articles 20 and 21 create legal guarantees for durable goods, giving consumers the choice of repair, replacement, or a refund when a product is defective or fails to function properly. This mechanism is widely used in practice and can be enforced directly by consumers against sellers without the involvement of lawyers or state authorities, illustrating how the law functions as a self-help tool for everyday disputes.

Sanctions also have an environmental dimension. Article 24 increases penalties for misleading advertising related to environmental claims, but courts have yet to apply it. Similarly, Article 28(f) prohibits misleading advertising that makes false or ambiguous statements about a product's environmental impact, recyclability, or reusability, yet its judicial application remains minimal. A more recent amendment, Article 1(3), expands the definition of basic commercial information for durable goods to include the product's expected lifespan and the period during which spare parts and technical services will be available, although there are still no reported cases applying this rule.

Taken together, these provisions demonstrate that Chilean consumer law already contains functional mechanisms capable of supporting sustainable consumption, but their potential remains largely untapped in practice.

49 Law No. 21.455, 2022, <https://bcn.cl/33ori>.

50 Law No. 19.496, 1997, <https://bcn.cl/2pv9x>.

Beyond the Consumer Protection Act, other Chilean laws also help promote more sustainable consumption by focusing on specific products and supply chains. **Law No. 21.368**⁵¹ (Law on Single-Use Plastics and Plastic Bottles) aims to cut down on disposable items in food services, encourage reuse, and control the use of plastic bottles. It bans all single-use items for eating on site and only allows certified or recyclable materials for takeaway orders when the customer asks for them. The law also requires that certified plastics be easy for consumers to identify and that shops promote the sale of returnable bottles.

The Law No. 20.920⁵² (Chile's Recycling Law) sets rules that make manufacturers and importers of products like batteries, electronics, and packaging responsible for managing the waste created after consumers use them. It also supports eco-labelling and organised recycling systems. One example is the voluntary *Elijo Reciclar* ('I Choose to Recycle') label, which shows that a package is at least 80 per cent recyclable and is meant to help consumers choose more environmentally friendly products, even though the label is still in a trial stage.

V. Functional comparison of sustainable consumer law in France and Chile

This section integrates the descriptive and comparative analysis by examining both jurisdictions under the same functional categories. It highlights how each legal system addresses key problems of sustainable consumer law and allows a step-by-step comparison of their approaches.

1. Misleading environmental claims and greenwashing

France. The *Loi Climat et Résilience* explicitly classifies greenwashing as a deceptive commercial practice, amending Article L121–2 of the *Code de la consommation* to prohibit 'false or misleading claims regarding the properties of a product or service—particularly in terms of environmental impact', and to cover misrepresentation of the scope of a brand's sustainability commitments.

Chile. Law No. 19.496 similarly forbids misleading advertising. Article 28(f) prohibits false or ambiguous claims about a product's environmental

51 Law No. 21.368, 2021, <https://bcn.cl/2qvub>.

52 Law No. 20.020, 2016, <https://bcn.cl/2exlx>.

impact, recyclability or reusability. Article 24 adds higher penalties for misleading environmental claims, yet neither provision has been meaningfully enforced.

Comparison. Both systems formally address greenwashing, but France provides a direct and enforceable prohibition, whereas Chile's rules remain largely declarative and have seen little judicial application.

2. Consumer information and environmental labelling

France. Environmental information duties are central to the French framework. Article L541-9-11 of the *Code de l'Environnement* establishes an environmental impact label for goods and services. The *Loi Anti-Gaspillage pour une Économie Circulaire* (AGEC) requires detailed disclosure on product durability and reparability, including the Repairability and Durability Indexes, and bans the destruction of unsold consumer goods.

Chile. Article 3(b) of Law No. 19.496 recognises the right to truthful and timely information, but it does not explicitly require environmental data and lacks case law. A 2022 amendment to Article 1(3) requires sellers to inform consumers of a product's expected lifespan and the availability of spare parts and technical services, but there are no reports of enforcement. Voluntary schemes such as the *Elijo Reciclar* label under the Recycling Law (No. 20.920) indicate recyclability but remain in pilot stages.

Comparison. France offers a comprehensive, mandatory labelling regime and measurable indexes, while Chile relies on general information duties and voluntary labels without effective oversight.

3. Product durability and reparability

France. The AGEC Law obliges producers to disclose and, in some cases, ensure product durability and reparability. Consumers can rely on durability and reparability indexes to make informed choices, and producers face clear duties to provide spare parts and repair information.

Chile. Articles 20 and 21 of Law No. 19.496 grant consumers the right to repair, replacement, or refund for defective durable goods. These guarantees are widely used and can be enforced directly by consumers without legal representation, but they do not impose broader obligations to enhance product lifespan. Moreover, Chilean law does not create incentives for consumers to favour repair or long-lasting products. Because they can freely

and easily opt for a refund or a new item when a defect occurs, the right to repair remains secondary and less attractive in practice.

Comparison. Both systems recognise durability as a consumer interest, yet France transforms it into enforceable producer duties, while Chile frames it primarily as a post-defect remedy, where the ease of refunds or replacements leaves repair as a less-used option.

4. Waste prevention and fast fashion controls

France. France prohibits the destruction of unsold consumer goods and has introduced the *Proposition de loi visant à réduire l'impact environnemental de l'industrie textile*, which targets ultra-fast fashion with border measures and a tax on small parcels from outside the EU. Article 7 calls for 'mirror measures' to impose EU environmental standards on imports and even proposes reversing the burden of proof so exporters must demonstrate compliance with human-rights and environmental norms. Article 8 establishes a tax on parcels under 2 kg shipped by non-EU platforms, collected under the same procedures as VAT.

Chile. Chilean law contains no equivalent prohibition on destroying unsold goods and no direct regulation of fast fashion. The main waste-reduction instruments are sectoral: Law No. 21.368 bans single-use plastics in food services, while the Recycling Law No. 20.920 creates extended producer responsibility for certain products and encourages eco-labelling and recycling.

Comparison. France adopts targeted measures to reduce textile waste and to curb the environmental impact of fast fashion, while Chile relies on broader waste-management laws that are not consumer-specific.

Moreover, France has initiated the regulation of the fast fashion industry through targeted legal proposals that restrict advertising and impose sustainability-related duties on platforms. Chile has not introduced comparable initiatives.

VI. Reflections and lessons for Chile

This comparison reveals significant differences in legal design, enforceability, and ambition. Chile has introduced some environmental considerations into its consumer law, but these remain modest and rarely applied. In contrast, even within the limits of this preliminary analysis, France offers

a more comprehensive and enforceable legal framework—one that places sustainability at the heart of consumer protection.

Several factors may explain why Chile has not yet adopted similarly strict rules. A central reason is the lack of political will, which can be understood in light of the country's status as a developing economy. Policy priorities have tended to focus on issues perceived as more urgent, such as public security, migration, health, and education. Cultural influences also play a role. Chile has long been shaped by strong U.S. cultural and economic influence, particularly since the dictatorship that began in 1973, which reinforced market-oriented, capitalist ideals. These historical and cultural factors help to explain both the limited interest in sustainable consumer law and the weak enforcement of the few environmental provisions that do exist.

For Chile, the implication is clear: integrating sustainability into consumer law requires enforceable duties for producers, rights for consumers, and coherent regulatory mechanisms. While France does not offer a model to be mechanically replicated, its experience provides an inspiring and compatible example of how meaningful legal transformation is both necessary and achievable.

Looking ahead, certain starting points for reform stand out. The most pressing need is to strengthen mandatory environmental labelling and truthful-information duties, ensuring that consumers receive clear, verifiable data on product durability and environmental impact.

France demonstrates the value of moving from aspirational provisions to binding legal standards, supported by measurable tools such as the Repairability and Durability Indexes. It has developed a structured system of environmental labelling, addressed planned obsolescence, introduced waste-prevention measures, and regulated fast fashion. Importantly, these reforms enjoy strong public legitimacy, as shown by the role of the Citizens' Climate Convention in shaping the *Loi Climat et Résilience*.

Nonetheless, any proposal for legal transplantation must be grounded in a more detailed and context-specific analysis. Further research from within France is essential to understand the precise operation and impact of its legal instruments. This article offers only a preliminary perspective intended to guide and encourage future research and policy development.