



## **A STUDY ON GREENWASHING AS A NEW MISLEADING ADVERTISING TECHNIQUE AND ITS IMPACT ON SUSTAINABILITY- A LEGAL ANALYSIS**

K. Divya

*Assistant Professor & Part time Research Scholar,*

*School of Excellence in Law-TNDALU*

*E-mail id- divyalaw111@gmail.com*

### **Abstract**

In the contemporary days where climate change and resource depletion keep escalating, the exigency for sustainability has become imperative. Consumers are retorting to this call with a mounting penchant for eco-friendly products. However, a rapid increase in the number of 'green shoppers' gave rise to 'green marketing', where companies use smart advertising techniques thereby making sustainability claims to entice green shoppers. This paved the way to the threat of 'greenwashing'. It would be greenwashing, if companies advertise goods or services as "organic", "eco-friendly" "CFC-free" "100%natural," "biodegradable" or promising them a "green" tomorrow knowing such claims to be false. It further exaggerates when customers, fooled by such

deceptive claims, are imposed a premium for such alleged green products. There is a legislative framework in India to bridle greenwashing and ensure precise environmental claims by companies. "The Bureau of Indian Standards" has put forth IS/ISO 14024:2018, which sets norms for eco-labelling and guidelines for environmental claims in advertising. "The Ministry of Environment, Forest and Climate Change" divulged the Green Good Deeds drive, supporting eco-friendly actions and suggesting guidelines for corporate environmental claims. "The Environment Protection Act, 1986", imposes penalties for infringing environmental regulations. "The Advertising Standards Council of India" directs that in advertising environmental claims it must be explicit, precise, and not deceptive. The "Central Consumer Protection Authority" disseminated the "Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims 2024", which is a pioneering step for the legal regime on 'greenwashing' in India. The Guidelines edict verifiable documentation and third-party certification for environmental marketing claims. Infringement of these guidelines carries extensive penalties and potential imprisonment. Technology plays a



vital role in combating greenwashing by granting tools and resources thereby promoting authentic environmental sustainability efforts. This paper highlights how Greenwashing is emerging as a misleading advertising technique and its impact on sustainability and the way forward to regulate the same with the aid of technology.

**Keywords:-** Advertisement, Misleading, Environment, Consumer, Sustainability, Technology.

### Introduction

The swift industrialization, privatisation and globalization over a few decades has caused drastic environmental degradation. This led to a cause of pivotal concern for companies, governments and the public globally. Consumers are very sentient about the goods which they buy and its impact on the environment, which is perceptibly seen in their purchase behaviour. The desire towards green products by more consumers has motivated the manufacturers to espouse eco-friendly practices not concerning the production process but also in the end product itself. Green marketing has been regarded as the most chosen technique to

fascinate an enormous mass of customers who go eco-friendly. The reason behind a large number of consumers opting for green goods is to help the environment or to have a minimal effect on the environment. Companies are retorting to emerging demands globally for products that are environmentally safe and sustainable practices. A business may adopt techniques to encourage itself in respect of answering such demands. Though, businesses may be encouraged to make public statements regarding their sustainability records and climate change promises, unsubstantiated and unverified claims can result in allegations of ‘greenwashing’ if such marketing techniques are modelled to make the public believe that a company is doing more to safeguard the environment than it actually is.

### Greenwashing

Greenwashing is a marketing technique where companies in their advertisements claim deceptively or embellish the environmental uses of their goods or services, often using imprecise or unverified terms such as *“organic”*, *“eco-friendly”*, *“CFC-free”*, *“100%natural,”*, *“biodegradable”*, *“green”*, *“clean”*, *“pure”*, *“Good for the planet”*, *“cruelty free”*



*"Plastic-Positive," "Climate-Positive,"*

*"Net-Zero,"*. The term "greenwashing" was first coined in 1986 by an American environmentalist Jay Westerveld (Westerveld, n.d.) in an essay called "The Greening of Corporate America." Westerveld in this essay censured even though the ultimate aim of the hotels was to be thrifty on laundry costs it inspired guests to reuse their towels to "safeguard the environment," Westerveld stated that this was an instance of Greenwashing, and that companies were utilising environmental claims to endorse their goods without in reality making reasonable changes to their environmental acts. From then onwards, Greenwashing has become a usual practice as considerable companies indulge in making environmental claims in their marketing space.

### **Types of Greenwashing**

There are different strategies of Greenwashing prevailing globally. Few of them have been discussed below.

**1. Making False Claims:** It is an upfront technique of greenwashing, where companies are identified to have claimed about their goods or service without thorough study or concrete data. It recently happened that the "European Commission"

and the "Network of Consumer Protection Cooperation" had sent letters to twenty airline companies in which numerous types of misleading green claims were detected (Covington, 2024). It was further stated in the letter that the airlines should bring their practices in conformity with the European Union consumer law within a period of 30 days. Few instances of the misleading practices identified were the usage of words like "Sustainable Aviation Fuels" "green," "sustainable," or "responsible".

**2. Selective Disclosure:** Selective greenwashing takes place when a product is tagged as "green" depending on a finite set of attributes that have not considered other pivotal environmental factors. A remarkable instance is where an automotive manufacturer advertised its "Eco-Friendly" diesel engine mechanism as a clean and effective driving solution. Nevertheless, investigations disclosed that the company had installed furtive software in 11 million vehicles, permitting them to escape emissions tests. These cars discharged pollutants far past limits that are acceptable. As a consequence, the company had been fined approximately \$18 billion. This case sets an example for accountability and transparency in environmental claims.

**3. Overstating Environmental Benefits**

**and Lack of proof:** This false practice is a technique of exaggerating how an organization claims to be eco-friendly in its several reports circulated to stakeholders or registered with many regulatory agencies. The danger of a company being witnessed to have been involved in this sort of greenwashing is predominantly high given competing Environmental Social and Governance reporting requisites across diverse jurisdictions or even various agencies within the same country. Without completely grasping divergent requirements, a statement that would be passable or precise in one country or disclosed to one regulatory body may not be suitable when similarly reported to another.

**4. Depending on Vagueness:** This mode of greenwashing transpires when a company's advertisement is puzzling or vague and may result in consumers misunderstanding its exact significance. For example, terminology like **"100% natural," "biodegradable,"** and **"eco-friendly"** have been found sometimes on products to consist of synthetic components. This is an act that is punishable and can lead to the imposition of huge fines by regulators.

**5. Misleading Visuals or Graphics:**

Companies may be alleged to have used deceptive images, scenes that are pristine to display conservation of nature and eco-friendliness. For instance, usage of green colours, icons of trees, or images of animals on packages can make an impression of sustainability. This can be detected to deceive consumers potentially about the environmental effect of their goods or services.

**6. Fake Certification:** Companies can also be detected to have been involved in greenwashing if they entitle unrecognized third-party certifications. For example, Products that are labelled as "green" without appropriate certification can be misleading to consumers.

**Classic examples of Green-Washing Advertising****1. Volkswagen Emission scandal (BBC News, 2015)**

In 2015, Volkswagen advertised their cars as green and free from emission and got it permitted in emission tests conducted by the Government. But the truth was different. It was detected that several Volkswagen cars being sold had a "defeat device" which is a software in diesel engines that could sense



when they were put to test, accordingly altering the performance to enhance results.

### **2. H&M's Conscious Collection (Whiting, 2024)**

The Swedish fashion gargantuan H&M's Conscious Collection, threaded with sustainable materials such as recycled polyester, organic cotton and Tencel were put to task by the Norwegian Consumer Authority which alleged it of misleading customers with deficient information about the sustainable effect of its garments.

### **3. Nestlé's Packaging claims (Dive Brief, 2018)**

In 2018, Nestlé, a giant Food and Beverage Company globally, also faced criticism when it declared its vision to make 100 % of its packaging reusable or recyclable by 2025. Greenpeace, an Environmental watchdog, was swift to mention that substitution of material was not sufficient to halt pollution from single-use plastics and alleged Nestlé's promise to lack transparency, vibrant targets, and substantial investment.

### **4. Royal Dutch Shell (The Climate 02, 2023)**

'Royal Dutch Shell', Oil giant, has been scanned for its green-washing advertising and has been penalised time and again for it.

ASET Journal of Management Science (E- ISSN: 2584-220X)

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One of its renowned advertisement campaigns - **"Don't throw anything away-there is no away"** accentuating the claim of flowers that are budding out of Carbon dioxide emissions has been put to criticisms heavily for it being misleading and fake.

These above few real examples show that greenwashing is certainly an obstacle in the way to achieve the Environment and Social responsibility practices which has been encouraged by judiciaries and legislations globally. It is not only an infringement against the environment, furthermore an offence resulting in tricking the stakeholders and investors, swindling consumers, a conspiracy to involve in an act of crime and manipulation of share prices.

### **5. Godrej Soaps (Tax India Online, 2023)**

In India, "Godrej Consumer Products Limited" was put to check for imprecise claims concerning the environmental advantages of its "Godrej No. 1" soap. The advertisement claimed that the soap was "100% natural," "biodegradable," and "ecofriendly," though it comprised of synthetic elements.

### **6. Bharat Petroleum (Mookherjee, 2024)**





In India, the Advertising Standards Council of India on account of unsubstantiated environmental claims banned Bharat Petroleum's advertisement that asserted ***"Go Green with Speed For IT Reduces Emissions"***.

### **Greenwashing as a Misleading Advertising Technique IN India**

The menace of misleading advertisements was emphasized at the latest by the "Supreme Court of India" in the case of "Indian Medical Associations and Anr v Union of India and Ors (Supreme Court of India, 2024)", in which it was portrayed that the devious nature of misleading abuses consumers' vulnerabilities for commercial advantage. Such advertisements, by making fabricated claims, thrives individuals to make purchasing decisions on the ground of flawed information. "The Central Consumer Protection Authority" has vibrated this issue in its previous actions. For instance, it issued an order that in India Sensodyne withdraw its advertisement, deceptively claiming that the product was "Recommended by Dentists Worldwide" and the "World's No. 1 Sensitivity Toothpaste". Furtherance imposed a penalty of INR 1 million (USD11,800) due to Sensodyne's endorsements by foreign

dentists, infringing advertising regulations in India.

A study at the latest by the "Advertising Standards Council of India" detected that 79% of environmental claims by companies in the Indian market were exaggerated or misleading, highlighting the ubiquitous nature of greenwashing (Srivastava, 2024). An escalation in the number of consumers who are environmentally sentient have nurtured an environment ripe for greenwashing, this strategy, along with fake environmental claims, can have a severe impact on public health by muddling the actual risks linked with products advertised as "green" or "eco-friendly."

### **Legislative Framework to Combat Greenwashing in IndiaA**

Greenwashing in India is addressed under a blend of laws, regulations, and guidelines, which primarily focus on misleading trade practices to guard consumers. Few of them are "The Consumer Protection Act, 2019", "Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims, 2024", and other sector-specific regulations published by the industrial bodies such as the "The Advertising Standards Council of India",



“Reserve Bank of India”, and “Securities and Exchange Board of India” etc.

### **The Consumer Protection Act, 2019 (Department of Consumer Affairs, 2019)**

This piece of legislation is a robust mechanism to combat greenwashing. The Act defines "unfair trade practice" to mean misleading representations regarding the quality of products, goods or services. Greenwashing comes with its purview as it involves making deceptive claims about a good's or service's environmental benefits to lure consumers. The Act grants the authorities the right to initiate action against such practices put forth by businesses, making sure consumer rights are safeguarded and precision exists in the marketplace.

### **Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims, 2024 (Department of Consumer Affairs, 2024)**

In India before the Guidelines got implemented, there was no exclusive legislation to address greenwashing. As discussed earlier misleading and deceptive advertisements and unfair trade practices were controlled within wider rules and

regulations of the “Consumer Protection Act, 2019”. The “Central Consumer Protection Authority”, under the “Ministry of Consumer Affairs”, has published exclusive guidelines for averting and regulating greenwashing. It is famously called **“Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims, 2024”**.

These Guidelines are applicable to every advertisement, irrespective of the format and technique of advertising, and to each person such as the provider of service, seller of product, advertiser, advertising agency, or endorser who are a chunk in advertising such products or services. It also imposes a flat prohibition on greenwashing by all those to whom these guidelines are applicable. The Guidelines asserts that businesses grant reliable scientific evidence to aid environmental claims. The Guidelines provides an eclectic definition to “Greenwashing”. The definition encompasses disinformation disseminated by a business enterprise to endorse itself as environmentally responsible. The definition excludes utilisation of clear hyperboles, puffery and the usage of generic colour patterns or pictures that are not misleading or deceptive. The Guidelines further defines “Environmental claims” which cover all



forms of awareness on the environment depicted by businesses through their green buildings, eco-labels, sustainability reports, industry pledges and clean technologies.

Further as per the Guidelines, all evidence relating to environmental claims must be revealed to consumers. To pick and choose to reveal only constructive data will also amount to infringement. Any form of visual representation that tries to deploy a consumer into believing that a good is environmentally sustainable is limited unless the good honestly meets environmental standards.

### **Enforcement and Penalties**

Penalties for greenwashing are enforced under the “Consumer Protection Act 2019”, with the “Central Consumer Protection Authority” permitted to act against companies making deceitful claims. According to the Act, first-time offenders may undergo imprisonment of up to 2 years and fines up to ₹ 10 lakh. For offenders who are repeating the same, the penalties can intensify to imprisonment of up to five 5 years and fine up to ₹ 50 lakhs (Government of India, 2019).

The novel “Guidelines for Prevention and Regulation of Green or Misleading

Environmental Claims, 2024” present momentous advantages to shield consumers in a swift eco-conscious market. It aims to promote keen transparency, permitting consumers to make more informed choices about the goods they buy. By precisely defining what makes honest environmental claims against misleading ones, these guidelines empower consumers against latent deception. Yet, consumers must be vigilant and informed, as the concrete effectiveness of these Guidelines depends on their vigorous engagement and caution to make sure compliance from companies.

### **The Companies Act, 2013**

The Act mandates certain companies to donate a percentage of their profits from their business toward Corporate Social Responsibility (CSR). For instance, TCS through drive such as the "Tata Water Mission" (CEO Water Mandate, n.d.), grants fresh drinking water and also focuses on education, skilling, and entrepreneurship displays its commitment towards CSR. These activities improve social well-being and, by extension, the environment surrounding business activities. There is a concurrence of legal fulfilment and positive results through sustainable business practices.





### The Bureau of Indian Standards

“The Bureau of Indian Standards” certification enhances the reliability of products which claim to be environment friendly through which quality, care, and environmental impact is preserved. Hence, exhibiting eco-friendly labels without fulfilling BIS regulations raises added legal consequences such as fine, imprisonment or seizure. Therefore, Regulations like this play a prominent role in dealing with greenwashing in India by launching genuine environmental claims and making companies liable for the same.

### The Advertising Standards Council of India (ASCI)

In India, “The Advertising Standards Council of India” executes a very vital regulatory role in preserving the advertising content. It has come up with self-regulatory norms that require advertisers to aid every communication, including environmental, with entirely clear and exhaustively explored accurate evidence to back the advertisements. The Council supervises all sorts of advertisements and also receives complaints against misleading environmental advertisements. The decisions taken by it are not firmly enforceable by law but might call for

alterations in non-compliant advertisements and removal, resulting in greater ethical advertisement and depletion of greenwash. Apart from ASCI's function in self-regulation, its recommendations do not have a binding effect, as stated in the case titled “Teleshop Teleshopping v. Advertising Standards Council of India” (Bombay High Court, 2024). It can only suggest advertisers to alter or remove misleading advertisements, with non-compliance resulting in reputational injury. ASCI can also refer matters to regulatory authorities such as the Ministry of Consumer Affairs for added legal action or penalties. A key instance is “Ekam Eco Solutions Pvt. Ltd”, whose “Zerodar CARE Natural Hand Wash Liquid” was promoted as "eco-friendly" without adequate evidence, leading to the Advertising Standards Council of India's intervention.

### Reserve Bank of India (RBI)

The RBI in its circular has inscribed greenwashing in the financial sector. It is titled as the "**Framework for Acceptance of Green Deposits,**" (Reserve Bank of India, 2023). It makes sure that when financial institutions come up with green investment products, they authenticate their environmental claims. Verification by a



third party and an impact assessment validate that the environment is benefitted from having funds assigned by green deposits. This action aids to evade labelling financial products as '**green**' by financial institutions without practical evidence concerning environmental impact. It will uplift consumer trust in financial products which go green.

### **Securities and Exchange Board of India (SEBI)**

The Securities and Exchange Board of India also played a pivotal role in the prohibition of greenwashing within the financial sector. It has issued a circular titled **"Dos and Don'ts relating to green debt securities,"** (Securities and Exchange Board of India, 2023) for the issuers of green debt securities. It is intended to make sure that entities who issue green bonds or other green financial instruments have precise, supportable environmental claims to verify such claims without being misleading in ways that would deceive investors and stakeholders.

### **Consumer Attitude Toward Sustainability**

In India the scope of legislation discouraging greenwashing is emphasized by budging consumer attitudes toward sustainability. Latest findings by "PwC India" reveal

around 60% of consumers pick sustainable products, which is an indicative factor on their environmental awareness. Consumers are keen to spend 13.1% more for sustainable goods, transcending the average of 9.7% globally (Moneycontrol News, 2024). Furthermore, a "Bain" report declares 20% of consumers in India give importance to environmental and social concerns, with 43% have listed sustainability among their top purchasing norms (Times of India, 2022). Though, the findings from the "Advertising Standards Council of India", which expose that 79% of brands' environmental claims are repeatedly embellished or deceptive. Furthermore, a "YouGov" study depicted that 71% of consumers in India have come across greenwashing, with 60% stating concern. With only 29% believing sustainability claims, the requirement for sterner regulations is evident (Outlook Business, 2024).

### **"GENUINE" Sustainability in Indian Advertising**

As environmental calamities intensify globally, brands are confronting novel demands to establish an honest obligation to sustainability. Climate change in India may result in severe floods, scarcity of water and



air pollution, the discussion around sustainable marketing has touched a crucial moment. With the latest guidelines by the government on greenwashing, Indian companies cannot bestow lip service to sustainability. They must shape actual, impressive affiance with consumers who prefer responsible brands. In India, Sustainable marketing grants not only a possibility for compliance but also an option for companies to generate trust and faithfulness among the country's environmentally mindful consumers.

### **The Role of Technology in Sustainable Marketing**

In order to improve consumer trust and operational efficiency, Indian companies should implement technology in their effort to sustainability. Few ways to do the same are discussed below.

#### **Technology-induced transparency:**

Blending blockchain technology and IoT can offer a clear look at a product's journey and its impact on the environment. For example, an ordinary QR code on a product could depict consumers how much carbon was equipoised during production process or detailly put forth the sustainable practices utilised.

**Digital-first campaigns:** A drive that allows consumers to calculate their carbon footprint savings by choosing eco-friendly goods can be effectual. Using Artificial Intelligence to identify such data is not only a way to think forward but also highly pertinent to a tech-savvy consumer.

### **Suggestions to Combat Greenwashing Advertising**

1. Authorities should precisely define the importance and components of green advertising by companies. Where it is not so the companies will be involved in green washing practices even without directly infringing the current legislative framework.
2. The government officials should keep conducting green audits to evaluate the degree of divergence from green advertisement yardsticks and commercial codes of conduct.
3. Rigorous yet effectual policies should be made at every level starting from village, tehsil, district, state and central level with proper mechanism to check green washing.
4. The awareness level has to be increased among consumers so that



- they can evidently differentiate between green washed and genuine green products. This will also daunt the companies to engage in green washing activities in the distress of losing income due to enhanced awareness of the consumers pertaining to green washed products.
5. The awareness level has to be increased among consumers so that they can evidently differentiate between green advertisements and green washed advertisements. A pivotal role in this regard should be played by government authorities and media.
  6. Consumers need to have adequate information on green washing. If green washing persists unimpeded then reliable green companies will lack their scope in the business field.
  7. Authorities should also emphasize on enforcing rigorous laws to curb this practice.
  8. The consumers should on their own check for the trustworthiness of the green claims put forth by the companies by verifying these claims with supportive proofs on Google and the company's official websites.
  9. The companies should mention their green claims in a precise and rational manner not only portraying the positive effects but also the negative impact of their goods. They should also bolster all their green claims with applicable data and certifications carried by reliable third parties.
  10. Public Private Partnership structure can be employed where the government and private bodies can jointly formulate policies and guidelines to simplify and implement effectual environmental guidelines.
  11. Environment and consumer protection authorities should be commended with high responsibility towards enhancing the awareness among all the stakeholders.

### Conclusion

The green washing as a misleading advertising technique is mounting due to feeble existing regulatory framework and lack of any applicable standards and guidelines globally on environmental communications. The consumer is primed to pay a premium price for products that go





green but the companies should also be accountable enough to manufacture quality products by abstaining from activities on greenwashing. It is high time that the companies mix sustainable goals into their marketing strategy thereby making sustainable development possible for upcoming generations.

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