International Journal of All Research Education and Scientific Methods (IJARESM),
ISSN: 2455-6211, Volume 14, Issue 5, May-2026, Available online at: www.ijaresm.com

Greenwashing in Advertising Legal Ramifications for Sustainable Business

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DOI: https://doi.org/10.56025/IJARESM.2026.140526224

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ABSTRACT

The legal ramifications of greenwashing in advertising are examined in this doctrinal study, focusing on the regulatory frameworks governing false environmental claims.[1] As businesses increasingly use sustainability marketing, misleading green claims pose significant risks to consumers, competition, and environmental policies. This study evaluates statutory laws, court decisions, and regulatory guidelines across multiple jurisdictions to assess how legal systems address greenwashing. The research critically analyzes key legal frameworks, including the Federal Trade Commission (FTC) Green Guides (U.S.),[2] the EU Unfair Commercial Practices Directive,[3] and the UK Advertising Standards Authority (ASA) rules.[4] It also highlights major greenwashing cases, such as Volkswagen's Dieselgate,[5] H&M's misleading sustainability claims, and BP's rebranding tactics, to illustrate judicial responses and corporate accountability.

Findings reveal regulatory gaps, inconsistent enforcement, and challenges in proving deceptive green claims. Weak penalties and unclear legal definitions allow businesses to continue greenwashing with minimal repercussions.[6] The study recommends stricter legal enforcement, third-party verification of sustainability claims, and enhanced corporate accountability measures. Furthermore, it emphasizes the role of consumer activism and stricter regulatory oversight in preventing deceptive green advertising.

Keywords: Greenwashing, Sustainability Advertising, Consumer Protection, Environmental Law, Corporate Accountability, Business Ethics.

INTRODUCTION

Greenwashing is a deceptive marketing[1] tactic used by companies to make their products or services appear more environmentally friendly than they actually are. In an era where corporations face immense pressure to be environmentally conscious, distinguishing between genuine sustainability efforts and false claims has become increasingly difficult. Greenwashing allows companies to mask their true environmental impact through clever advertising and misleading labels.

To identify greenwashing, consumers should look out for vague or unsubstantiated claims, such as "environmentally friendly" or "green", without supporting evidence. In contrast, genuine environmentally responsible companies provide specific details about their sustainability efforts. By staying informed, reading labels carefully, and holding companies accountable for their environmental claims, consumers can help combat greenwashing and promote real sustainability.
To reach the integration of social environmental concerns in business operations companies must be sustainable and socially responsible not only economically. They have to aim the three bottom lines economic, environmental and social performance or people, planet and profit. Greenwashing was first accused in 1986 by activist Jay Westerveld, when hotels begin asking guests to reuse towels, claiming that it was a company water conservation strategy, although, did not have any environmental actions with more significant environmental impact issues

Scope and Limitations of the Study

This study focuses on understanding the legal dimensions of greenwashing in advertising, particularly in the context of promoting sustainable business practices. It aims to analyze how greenwashing misleads consumers, distorts ethical marketing, and challenges existing legal frameworks. The scope of the research primarily includes an examination of relevant statutes, regulations, case laws, and judicial interpretations that relate to advertising ethics, consumer protection, and environmental claims.

The paper also seeks to explore the role of regulatory bodies such as the Advertising Standards Council of India (ASCI), the Consumer Protection Authority, and the Environmental Ministry, in curbing deceptive sustainability claims. Comparative references to global best practices and international standards are also included to provide broader insight and potential reform ideas for Indian law.

The scope is also limited to the Indian legal context, although international perspectives are briefly discussed for comparative understanding. The rapidly evolving nature of sustainability trends and marketing practices may also limit the long-term applicability of certain findings.

FTC Green Guides for the United States

Green Guides were created by the Federal Trade Commission (FTC)[4] to offer guidelines on how to make environmental claims without being dishonest. The Guides, which were first published in 1992 and last revised in 2012 (with changes being considered), cover concepts like "carbon neutral," "recyclable," "eco-friendly," and "compostable." General guidelines prohibiting ambiguous, unsupported environmental marketing; demands that claims be supported by science; and places a strong emphasis on contextual disclosures to prevent deceiving consumers Through the Federal Trade Commission Act, the FTC uses its extensive authority to stop "unfair or deceptive acts or practices" to enforce these rules.

India – Consumer Protection Act, 2019 & ASCI Guidelines

India mostly controls deceptive green claims through the Consumer Protection Act of 2019,[7] which forbids deceptive advertising and unfair business activities. • Violators may face penalties and corrective action orders from the Central Consumer Protection Authority (CCPA). Furthermore, Guidelines for Environmental Claims in Advertising (2023) were released by the Advertising Standards Council of India (ASCI)[8]: Ads must not mislead about the impact or benefits; claims must be supported by verifiable evidence; ecolabels must only be used when independently approved; and absolute environmental claims must be fully substantiated.

Other Global Initiatives and Collaborations

A global network of consumer protection authorities, the International Consumer Protection and Enforcement Network (ICPEN) collaborates to fight misleading practices, such as greenwashing. It makes cross-border information exchange and cooperative enforcement efforts easier. Global Reporting Initiative (GRI), This organization establishes international guidelines for sustainability reporting, although it is not a regulatory entity. Greenwashing in Public reports and ads is less common when companies arrange their environmental disclosures according to GRI criteria.

The Role of consumer protection agencies, NGO's and litigation

The problem of greenwashing is complicated and goes beyond the conventional lines of environmental governance, consumer rights, and corporate regulation. In this changing legal climate, public-interest litigation procedures, non-governmental organizations (NGOs), and consumer protection agencies have become vital players in identifying, contesting, and discouraging false environmental claims. Together, these organizations create a multi-tiered accountability structure that supports corporate responsibility, environmental justice, and transparency while bolstering regulatory enforcement.

Gaps in existing legal frameworks and enforcement mechanisms

Significant gaps still exist in the legal frameworks and enforcement procedures across jurisdictions, despite the growing regulatory scrutiny of greenwashing. These gaps show up in a number of ways:

- Absence of standard definitions: It can be challenging to enforce terms like "eco-friendly," "carbon-neutral," and "sustainable" since they sometimes lack clear legal definitions.
- Weak evidentiary thresholds: Many jurisdictions' laws are vague about what qualifies as adequate evidence for environmental claims.
- Disjointed law enforcement: Enforcement actions are frequently weakened by the overlap of authority among advertising councils, consumer protection organizations, and environmental agencies. Why Limited deterrent penalties: In comparison to business earnings, fines levied for making false sustainability claims are frequently insignificant, which lessens deterrence.
- Low public awareness: Grassroots accountability is limited because consumers frequently lack the technical know-how to recognize and report greenwashing.

Creating a Uniform International Regulatory Structure

Since greenwashing is a transnational problem, there is an immediate need for a unified international regulatory framework. Among the main suggestions are:

- International criteria for environmental claims in advertising, such as those provided by the UN or ISO.
- Market-specific ESG disclosure standards for publicly traded corporations are in line.

- Global consumer agency collaboration (e.g., FTC-USA, ACCC-Australia, CCPA-India).
- A global enforcement network to combat international greenwashing activities, akin to INTERPOL for financial crimes.

For instance, the International Sustainability Standards Board (ISSB) is attempting to develop a universally applicable ESG disclosure framework.

Institutional Strengthening and Capacity Building
The success of any legal ecosystem hinges on institutional competence and coordination. Many regulators, enforcement agencies, and consumer forums lack specialized capacity in sustainability law.
Capacity Enhancement Measures:

- Dedicated ESG Enforcement Cells in CCPA, SEBI, BIS, and NGT.
- Special Judicial Training for green marketing litigation and evidence analysis.
- Academic-Policy Collaborations for ESG research and regulatory feedback loops.
- NGO and Civil Society Partnerships to crowd source violations, conduct audits, and raise consumer awareness.

CONCLUSION

The present research has highlighted the urgent need for a comprehensive and robust legal and policy framework to tackle the growing menace of greenwashing in sustainability claims. The study has brought to light the existing loopholes, enforcement challenges, and regulatory inefficiencies that allow corporations to make false or exaggerated environmental representations with minimal accountability.

The researcher is of the opinion that although certain measures have been initiated—such as ESG reporting formats, consumer protection actions, and voluntary guidelines—they remain insufficient, fragmented, and inconsistent across jurisdictions. The lack of mandatory third- party verification, weak penalty structures, and absence of coordinated regulatory mechanisms further dilute the intent of environmental governance.

In conclusion, the researcher strongly advocates for stringent legal reforms, harmonized global standards, enhanced corporate liability, and transparency-driven disclosure mechanisms, which are essential for ensuring authentic sustainability practices and protecting consumer rights in a rapidly evolving environmental and commercial landscape.

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