
LEGAL ACCOUNTABILITY FOR GREENWASHING: ADDRESSING MISLEADING ENVIRONMENTAL CLAIMS IN CORPORATE PRACTICES

Adv. Kaustubh C. Pimpalkar, LL.M (Criminal Law), Dr. Ambedkar College, Department of Law, Deekshabhoomi, Nagpur, Maharashtra

ABSTRACT

As awareness of environmental issues are increasing, organizations are increasingly promoting their products as maintainable with consumers standards and protections. However, some companies engaging in greenwashing are deceiving their stakeholders by making inaccurate or false claims of environmental impact. This practice not only deceives consumers but also undermines genuine sustainability efforts, demotivates the fair competition and contributes to environmental harm by not implementing necessary standards.

This paper explores the phenomenon of greenwashing through its various forms including false claims, omission of genuine information, vague or undefined terminology and false certifications. It also examines current legal frameworks addressing greenwashing such as consumer protection laws, advertising standards and corporate accountability regulations in India. Despite these measures there are significant other challenges such as ambiguous standards, limited regulatory capacity, maintaining global standard of corporate operations, etc.

To combat the issue of greenwashing, this paper gives suggestions which are aimed at enhancing legal accountability and fostering transparency. These include introducing clearer definitions and stricter legislation for environmental claims, promoting independent third-party certifications, launching public awareness campaigns, etc. to educate consumers for identifying deceptive practices. Additionally, international cooperation is essential for uniform standards and preventing cross-border challenges posed by multinational treaties and corporations.

Legal mechanisms must evolve with the growing complexity of sustainability claims in corporate practices. By Strengthening accountability frameworks it can deter greenwashing, restore consumer trust and incentivize genuine corporate efforts toward sustainability. By fostering collaboration between governments, businesses and civil society this paper

underscores the need for a unified approach to ensure environmental claims are credible and contribute meaningfully to global sustainability goals.

Introduction: -

The increasing awareness has encouraged consumers to seek eco-friendly products and services by encouraging corporations to adopt and advertise eco-friendly practices. While many companies genuinely work to reduce their environmental impact others exploit this trend through greenwashing which are misleading claims that create an illusion of sustainability without actual action. This deceptive practice affects consumer trust, distorts competition and delays progress toward achieving global environmental goals.

Greenwashing includes various other forms such as exaggerated environmental benefits, omission of significant negative impacts, vague terms like natural or green, misuse of certifications, etc. These tactics not only misleads the consumers but also discourages companies that are genuinely contributing to sustainable practices.

Legal frameworks such as constitutional provisions, consumer protection laws, advertising standards, court precedents address the issue. However, enforcement is often inconsistent due to ambiguous definitions, limited resources and the complex, global nature of corporate operations.

This paper examines the prevalence and impact of greenwashing and evaluates existing legal mechanisms and proposes solutions to enhance accountability. Addressing greenwashing is essential for protecting consumers, ensuring fair competition and fostering genuine corporate contributions to environmental sustainability.

Meaning: -

The term was first coined by environmentalist Jay Westerveld in 1986 to criticize the hotel policy about reusing towels in order to “save the environment,” but in reality, it was just a policy aimed to reduce laundry costs. Since then, greenwashing becomes famous by increasing consumer demands for sustainable and ethical practices.

Greenwashing refers to the practice where corporations, organizations, individuals make false claims about the environmental benefits of their products or services. It involves presenting an

exaggerated, deceptive or unreasonable image of being environmentally friendly but in reality, they are not.

According to Lyon and Maxwell, greenwashing exploits consumers environmental concerns by emphasizing minor positive aspects of a product while ignoring its overall negative environmental impacts¹.

Greenwashing refers to the practice where companies mislead consumers by presenting their products, services or operations as environmentally friendly when, in reality, they are not².

Greenwashing can take the form of false eco-certifications, exaggerated claims or incomplete information that are deceiving stakeholders into believing a company is committed to sustainability³.

Greenwashing can be in the form of: -

- Misleading Claims (Stating false environmental benefits)
- Omission of Facts (Highlighting positive actions while ignoring significant negative impacts)
- Vague or Ambiguous Language (Using terms like "green," "eco-friendly," or "natural" without clear definitions or proof)
- False Certifications (Misusing or fabricating sustainability labels to appear original)

The aim of greenwashing is to develop companies image or market position by taking advantage of the growing demand for sustainability without implementing actual environmental measures. This practice deceives consumers, creates unfair competition and discourages trust in the corporate sustainability claims.

Scholars argue that greenwashing is often motivated by profit-driven interests, as businesses seek to capitalize on the rising demand for environmentally responsible products without

¹ T.P. Lyon, & J. W. Maxwell (2011), Greenwash: Corporate Environmental Disclosure Under Threat of Audit, *Journal of Economics & Management Strategy*.

² M. A. Delmas, & V. C. Burbano (2011), The Drivers of Greenwashing, *California Management Review*.

³ B. Parguel (2011), How Sustainability Ratings Might Deter 'Greenwashing': A Closer Look at Ethical Corporate Communication, *Journal of Business Ethics*.

incurring the costs of true sustainability⁴.

Consequences of Greenwashing: -

Greenwashing has serious consequences that may extend beyond to the consumer deception. It not only negatively impacts consumers but also affects the businesses, environment, society as a large which may create short-term and long-term setbacks in achieving sustainability. Following are the consequences of greenwashing: -

1. Loss of Consumer Trust: -

Greenwashing deceives the trust in environmental claims and corporate sustainability initiatives. When consumers come to know that the companies have misrepresented their environmental claims, they become doubtful of all other green claims including those who have made it genuinely. This loss of trust reduces consumers willingness to purchase eco-friendly products or support sustainability programs.

2. Misleading Consumer Choices: -

By presenting false illusion of sustainability, greenwashing deceives consumers into making wrong choices. Many consumers prioritize environmentally friendly products by paying more for them. It diverts purchasing toward companies product that do not have implemented actual environmental measures leading to wrong consumer choices.

3. Hindering Genuine Sustainability Efforts: -

Greenwashing affects genuine businesses that have invested in authentic environmental initiatives. Companies that are engaging in the false green claims enjoys various advantages. Also, they can appeal to eco-conscious consumers without incurring any costs of genuine sustainability efforts. This discourages other companies from making real environmental improvements as they find no competitive reward for transparency and accountability.

4. Environmental Harm: -

One of the worst consequences of greenwashing is that it contributes to environmental harm.

⁴ F. Bowen, (2014), Greenwashing: Symbolic Corporate Environmentalism and Society.

By doing false environmental claims, companies delay urgent actions needed to tackle the problems of global issues such as climate change, scarcity of resources, pollution, deforestation, etc.

5. Reputational Damages: -

While greenwashing may give short-term benefits; it poses significant reputational risks when it is exposed. Companies which are caught by doing misleading claims impacts its consumers at large. The public often suffer severe retaliation which may include loss of consumer trust, consumer loyalty, negative media attention, loss of goodwill, shareholder distrust, etc. Rebuilding trust is costly and time-consuming and in some cases, it can be irreparable reputational damage also with a significant financial loss.

6. Legal Consequences: -

In recent years greenwashing has increased pressure on governments and other regulatory bodies to enforce stricter rules for false environmental claims. This can result in heavier compliance burdens on businesses including transparency, accountability, mandatory disclosures, audits and fines. Regulations are necessary but it often aims to more complex and expensive rules for all businesses even those who are genuinely committed to sustainability.

7. Market Instability: -

Greenwashing also impacts investment of investors who prioritize Environmental and Social factors in their decisions of investment. Misleading claims can prejudice the investment choices by directing funds to the companies that fail to deliver meaningful sustainability outcomes. If they are exposed these companies may faces devaluation, loss of trust, loss of reputation, creating financial risks for investors and undermining the credibility of the markets.

There are various consequences of greenwashing which affect consumers, businesses and the environment. By loss of trust, misleading stakeholders, delaying systemic changes greenwashing hampers progress toward genuine sustainability.

International Law on Greenwashing: -

Greenwashing is a universal issue that affects the environmental goals and misleads

stakeholders at large. While no specific international law exclusively addresses greenwashing several legal frameworks, conventions and guidelines contribute to its regulation. These laws aim to promote corporate accountability, protect consumers and ensure truthful environmental claims in marketing and business practices.

United Nations Framework Convention on Climate Change (UNFCCC)

The UNFCCC encourages nations and corporations to act transparently in reducing carbon emissions. Companies engaging in greenwashing by misreporting emissions or exaggerating climate actions affects the global climate goals.

United Nations Guiding Principles on Business and Human Rights (UNGPs)

Guidelines states that the corporations have a responsibility to respect human rights including environmental rights and must avoid misleading claims about sustainability efforts in any conditions.

World Trade Organization (WTO)

The WTO's Agreement on Technical Barriers to Trade (TBT) requires an accurate labeling of products to ensure fair competition and protect consumer rights. Misleading environmental claims in product labels or advertisements can be challenged as violations of international trade regulations especially if they are affecting market access or consumer choices.

Unfair Commercial Practices Directive (UCPD)

It Prohibits misleading advertising including environmental claims that deceive consumers about a product's sustainability.

International Consumer Protection Laws

Multinational companies must avoid deceptive practices and must ensure truthful reporting on environmental impacts. International Chamber of Commerce (ICC) Advertising and Marketing Code promotes the ethical advertising and prohibits false or misleading environmental claims. This code sets global standards for truthful and transparent advertising practices.

Paris Agreement (2015)

The Paris agreement emphasizes transparency and accountability in climate action. Greenwashing practices such as overstating carbon offset initiatives or emission reductions undermine the credibility of national and corporate contributions to global climate targets.

International Standards and Certifications

1. ISO 14001: Environmental Management Systems: - This standard requires organizations to implement and report genuine environmental management practices. Misrepresentation of compliance can constitute greenwashing.

2. ISO 14020 Series (Environmental Labels and Declarations): - It Establishes guidelines for accurate and verifiable environmental claims on products. Companies must ensure that their labels reflect evidence based environmental benefits.

Laws relating to Greenwashing in India: -

India is witnessing significant awareness on environmental protection and sustainable development. To regulate greenwashing or misleading claims of environmental sustainability India has enacted certain laws, regulations as well as guidelines that ensures corporate accountability, consumer protection and environmental compliances. Certain laws related to greenwashing are as follows: -

1. Consumer Protection Act, 2019: -

The Consumer Protection Act protects consumers and their rights from unfair trade practices including misleading advertisements. The term advertisement has very broad interpretation and Greenwashing can be interpreted under this category when companies are falsely claiming environmental benefits to influence consumers attention. The Act empowers authorities to take action against such deceptive practices and provides remedies to affected consumers. The act penalizes businesses for misleading advertisements. It does establishment of Central Consumer Protection Authority (CCPA) to investigate cases and imposes fines or bans on entities making false environmental claims.

2. Environment (Protection) Act, 1986

This Act is an umbrella legislation for environmental protection. It also regulates industries practices for environmental protection. Although it does not explicitly address greenwashing but it mandates compliance of certain environmental standards which are very essential to implement and may indirectly eliminate false claims. The provisions of the act impose penalties for non-compliance with environmental standards. It also provides for the accountability of the industries for their environmental performance.

3. Guidelines of Advertising Standards Council of India (ASCI): -

The ASCI is a self-regulatory body for the advertising industries. It has issued specific guidelines to prevent misleading environmental claims by means of advertisements. The advertisers who have advertise certain environmental claim must substantiate those claims of eco-friendliness with scientific evidence. Terms like eco-friendly, green or sustainable should not be used ambiguously or it should be with proper qualification. ASCI can mandate advertisers to withdraw misleading green claims for the protection of the consumers.

4. Bureau of Indian Standards (BIS) Eco Mark Scheme: -

The Eco Mark is a scheme that certifies environmentally friendly products by encouraging responsible manufacturing companies and ensuring consumer's trust. However, misuse of the Eco Mark or similar types of other certifications by falsely representing a product as eco-friendly can constitute greenwashing and it is very common also. Eco Mark requires adherence to certain environmental criteria for valid certification violation of which results in the penalization.

5. Companies Act, 2013 (Corporate Social Responsibility - CSR): -

Corporate social responsibility is a framework that guides companies to be socially accountable to shareholders, to public as well as to itself. Engaging in Corporate social responsibility means a company should operates in such a way that it will enhance social and environmental factors instead of contributing them negatively. False claims about CSR efforts particularly that are regarding to the environmental sustainability can be scrutinized under this law. The act mandates reporting of CSR initiatives in annual reports. It also penalizes misrepresentation of CSR expenditures or outcomes.

6. Competition Act, 2002

The Competition Commission of India (CCI) is the legislation that addresses anti-competitive practices including misleading claims that distort market competition. When greenwashing is used to gain an unfair market advantage then it can be challenged under this law. The act prevents businesses from engaging into deceptive practices that are misleading their consumers. It ensures a fair platform for genuinely sustainable companies.

7. Indian Penal Code: -

Indian Penal Code (IPC) also provides for some legal provisions that can be applied to the false claims or fraudulent representation. Sections 415 of the code provides for the provision and punishment for cheating as well as section 420 talks about the cheating and dishonestly inducing delivery of property which can be applied to entities engaging in greenwashing practices.

Constitution of India on Greenwashing: -

The Constitution of India does not explicitly provide for greenwashing but its provisions lay a strong base for environmental protection, consumer rights and ethical business practices. These principles can be used to tackle the issue through judicial activism, making policies and doing its enforcement.

Article 21 i.e. Right to Life and Personal Liberty is the fundamental right under Indian constitution. The Supreme Court has expanded the scope of Article 21 which now includes the right to a clean and healthy environment. Companies that are engaged in greenwashing by the way of hiding their environmental impact may indirectly contributes to the environmental degradation which finally results in the violation of a right to clean and healthy environment. Citizens can invoke Article 21 to challenge such practices which are affecting their right to environment.

Article 19(1)(a) talks about the right to freedom of speech and expression. Consumers have the right to access truthful and correct information. False environmental claims through greenwashing can be a violation of this right.

Article 14 talks about the Right to equality. Unfair trade practices such as greenwashing distort

competition by giving deceiving companies an undue advantage. This affects the principle of equality in business operations. Article 48A in the part of directive principles of state policy talks about the protection and improvement of environment. The State are having duty to protect and improve the environment and to safeguard forests and wildlife. State Governments are expected to enact such laws that will prevent misleading environmental claims by ensuring genuine efforts toward sustainability.

Article 39(e) i.e. protection against exploitation directs the States to ensure that no harm is caused to people due to exploitation by businesses. By enabling unsustainable practices greenwashing indirectly may harm society by exacerbating environmental problems.

Article 51A(g) is the fundamental duty of every Indian citizen to Protect the Environment. Every citizen of India has a fundamental duty to protect environment including forests, lakes, rivers and wildlife. Corporations as part of society are ethically and legally obligated to align their operations with environmental protection. Greenwashing violates this duty by prioritizing deceptive practices over genuine environmental care.

Indian courts have actively interpreted constitutional provisions to promote environmental accountability. In *MC Mehta v. Union of India* (1987) the Supreme Court emphasized the importance of environmental protection under Article 21. The Constitution of India through its fundamental rights, directive principles and fundamental duties provides a robust framework to address greenwashing.

Landmark judgments: -

India has not yet seen a large number of cases directly related to the greenwashing but there are several landmark judgments where the judiciary has dealt with the issues related to misleading claims, corporate accountability and environmental protection.

Hindustan Unilever Ltd. v. Gujarat Consumer Protection Association (2008)

Hindustan Unilever having the allegations of misleading consumers about the environmental safety of its product Surf Excel. The company advertised that their product was "eco-friendly" without sufficient evidence to the claim. The Gujarat High Court emphasized the need for companies to ensure that any claims made in advertisements particularly those regarding

environmental impact must be true. This case is a precedent that companies could be held accountable under consumer protection laws for false environmental claims.

MC Mehta v. Union of India (1986)

While the case is not directly related to greenwashing this landmark case deals with the corporate accountability for environmental damage done by industries. It introduced the principle of Polluter Pays and reinforced the importance of trustworthiness corporate practices for eliminating environmental harm. The Supreme Court ruled that industries must be held liable for environmental damages by them by emphasizing transparency in their operations. Misleading claims about sustainability such as greenwashing is contradicting to the principle.

Vellore Citizens Welfare Forum v. Union of India (1996)

The case is about to the industries discharging untreated effluents into water bodies while falsely claiming to comply with environmental standards. The Supreme Court held that industries must adopt environmentally sound practices and adhere to the Precautionary Principles with Sustainable Development. It criticized false claims that shields the actual environmental harm. The principles laid down in this case also applies to greenwashing by mandating accountability of all environmental compliances.

Godrej & Boyce Manufacturing Co. Ltd. v. Eicher Motors Ltd. (2010)

In this case the court stressed the importance of verifying environmental claims with evidence to prevent consumer deception. This case has highlighted that how greenwashing could be contested under the Monopolies and Restrictive Trade Practices (MRTP) Act (now replaced by the Competition Act, 2002).

Dabur India Limited v. The Advertising Standards Council of India (2023)

Dabur company was charged for advertising false claims about the eco-friendliness of its product without adequate evidence. The advertising standards council of India directed Dabur company to withdraw all the misleading and false advertisements by emphasizing the need for evidence-based claims. This case is a direct example of Indian authorities addressing greenwashing.

Advertising Standards Council of India v. Patanjali Ayurved Ltd. (2016)

Patanjali Ayurved company was charged for making false claims about its products being completely natural and environmentally safety. The Advertising Standards Council of India (ASCI) ruled that the company had violated ethical advertising standards by failing to provide adequate evidence for their claims. This case shows the role of regulatory bodies like ASCI in holding companies accountable for misleading environmental advertisements.

Challenges: -

Greenwashing i.e. the practice of making misleading environmental claims gives significant challenges which are as follows: -

Incomplete Legal Definitions: -

There is no universally accepted legal definition of greenwashing which is complete in nature making it difficult to create specific laws. Ambiguity in defining greenwashing allows companies to exploit legal loopholes and escape from accountability.

Inadequate legal Frameworks: -

Many countries including India lacks in proper legal frameworks specifically on the greenwashing. Existing laws often address misleading or false advertisements in general but do not focus on wrong environmental claims. This leads to inconsistent enforcement and limited deterrence for companies engaging in greenwashing.

Difficulty in Verifying Claims: -

Verifying environmental claims requires lots of expertise with access to the original data and independent audits which are inadequate, partial and time-consuming. The regulatory authorities often lack the capacity to verify corporate claims comprehensively.

Lack of Awareness: -

Consumers often face the challenge of lack of knowledge to differentiate between genuine sustainability and false claims. This allows companies to mislead consumers easily.

Cross-Border transactions: -

Multinational corporations do their business across various jurisdictions with different regulations on greenwashing. This creates challenges in uniformity in enforcing laws and regulations.

Greenwashing in Supply Chains: -

Greenwashing frequently happens in international supply chains because of minimum transparency. Companies may be dependent on false statements made by subcontractors or suppliers for their businesses. It is more difficult to identify and address the causes of greenwashing when supply networks are opaque.

Weak Standards: -

Most of the environmental certifications and sustainability standards are voluntary and lack in strict enforcement mechanisms. Companies can take advantage of this weak standards to make false claims about their environmental performance.

Technological Gaps: -

Technologies such as blockchain and AI could be helpful to verify the claims but their adoption is limited due to high costs, lack of knowledge and lack of will. Without technological adoption verifying environmental claims remains a significant challenge.

Insufficient Stakeholder Engagement

Stakeholders such as NGOs, consumers and investors are not always effectively engaged in monitoring and reporting greenwashing. This reduces the collective ability to hold corporations accountable for their wrong acts.

Suggestions

Below are some of the suggestions to address greenwashing: -

1. Strengthening Legal Frameworks: -

Governments should enact legislation that is focusing on greenwashing only. By defining it

clearly and establishing penalties for false claims. Adding separate provisions into consumer protection laws and environmental laws will be more helpful. Uniform standards for environmental claims should be decided at international level.

2. Enhancing Transparency and Accountability: -

Companies should be required to disclose all the details of their environmental practices with certain proofs. Mandatory independent audits of environmental claims should be conducted to ensure their accuracy and credibility. Enforcement of standardized sustainability reporting frameworks such as GRI or CSRD to improve corporate transparency may be more helpful.

3. Promoting Technology: -

By using blockchain technology to track and verify the environmental impact of products and supply chains greenwashing can be prevented. AI tools may be used for Claim Verifications. It may detect misleading claims in advertising and corporate reports.

4. Increasing Consumer Awareness: -

Awareness campaigns should be conducted to educate consumers about greenwashing and how to identify genuine environmental products. Increasing of Eco-Labeling Standards may develop and promote reliable eco-labels that will indicate verified environmental benefits. Simple and Accessible Information will be helpful to consumers for making informed decisions.

5. Strengthening Enforcement Mechanisms: -

By setting up dedicated regulatory authorities to monitor and investigate environmental claims we can provide for more strengthen enforcement mechanisms. Imposing higher fines, cancelation of licenses will create shaming for companies found guilty of greenwashing. Creation of accessible platforms for consumers to report false environmental claims will aim to more reporting of cases.

6. Encouraging Corporate Responsibility: -

Encouraging businesses to adopt internal standards for promoting true environmental claims and sustainability practices is important. Incentives like tax benefits, subsidies or other

incentives for companies that prioritize genuine sustainability can be given. Collaborations between businesses, NGOs and governments to develop and promote ethical environmental practices may become a significant step to prevent greenwashing.

7. International Cooperation: -

By working together with institutions such as the OECD, ISO and the UN to create and execute international standards for environmental claims will be helpful. To combat the practice of multinational firms operating in many jurisdictions engaging in greenwashing international legal framework should be strengthened.

8. Revising Certification Processes: -

Certifications and eco-labels should have rigorous, science-based criteria. Regular Audits should be conducted for certifications to prevent misuse or misrepresentation by companies.

Conclusion: -

The global quest for sustainability is seriously hampered by greenwashing which not only damages credibility but also misleads stakeholders and undermines sincere environmental initiatives. It allows businesses to continue their wrong behavior and make fraudulent claims about their environmental performance. A diversified strategy including business responsibility, consumer awareness and regulatory enforcement is needed to address this problem.

To stop greenwashing a strong legal structure is necessary on a national and international level. Reporting which is transparent and validated by independent audits will be helpful to guarantee that environmental claims are supported by data. Blockchain technology and artificial intelligence (AI) present fascinating ways to keep an eye on and validate business operations. Campaigns for public awareness and educational programs may also help consumers to distinguish between genuine activities and dishonest greenwashing practices.