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# UNMASKING GREENWASHING: THE URGENT CALL FOR REGULATORY VIGILANCE

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## ABSTRACT

Corporate communication has evolved significantly in terms of channel, content, and receivers over the last few decades. Companies must be accountable to a diverse set of stakeholders who have become more curious about nonfinancial information. Furthermore, the type and extent of information can have a substantial impact on the company's competitive advantage, particularly its credibility and reputation. Companies are expected to engage in corporate social responsibility programmes in response to stakeholder and societal calls for action. However, some businesses participate in CSR projects solely to achieve or increase their degree of legitimacy. Companies engage in a practice known as "greenwashing," which is defined as providing false information and then attempting to sway the opinions of stakeholders.

Greenwashing is a phenomenon that can be used in Corporate Social Responsibility (CSR) reports. It occurs when an entity boosts positive social and environmental information in CSR reports by lying or bending the information. No regulations or legal penalties exist for entities that use greenwashing to deceive their stakeholders.

**Keywords:** Greenwashing, Corporate Social Responsibility

## **Introduction**

“Corporate Social Responsibility” (CSR) has arisen as a contentious compromise between the public demand for environmentally friendly products and services and the needs of investors for the competitiveness of businesses, i.e. maximum profits. Organisations participate in CSR activities to gain corporate legitimacy, but the participation may be entirely symbolic. Giving an impression of being socially responsible can be easier, more economical, and more flexible for businesses, and it may initially deliver the same benefits as actual dedication. Greenwashing happens in the context of pragmatic legitimacy when firms engage in false communication only at the symbolic level to strategically influence stakeholder attitudes.

Greenwashing happens when a company enhances its sales or improves its brand image by using environmental rhetoric or advertising, but does not follow through on these environmental claims. Entities that use greenwashing to defraud stakeholders face a lack of regulations and penalties. Because of the rise of green markets, as well as the practice of greenwashing, stakeholders are finding it increasingly difficult to trust the information provided by companies. Due to the lack of CSR reporting standards, companies have the option to pick what information they wish to reveal, which often results in only sharing information having a positive impact or regarding aspirations and intentions instead of actual actions.

## **Greenwashing**

Greenwashing has been around almost as long as “being green” has been regarded as desirable. Greenwashing has been around since 1986, when New York environmentalist Jay Westerveld criticised the hotel industry for putting notices in their rooms promoting towel reuse “to save the environment” while doing little or nothing to reduce energy use and waste. He claimed that the true goal was higher profits, and he referred to such profitable-but-ineffective “environmentally conscientious” acts as greenwashing. Since then, the term “greenwashing” has come to refer to any type of advertising or marketing in which "green" public relations or promotions are deceptively used to convince the public that a company's products, policies, and programmes are

environmentally friendly when, in fact, they are not.<sup>1</sup>

Greenwashing, according to the Oxford English Dictionary, is “the creation or propagation of an unfounded or misleading environmentalist image.” Greenwashing occurs when a company or institution spends more time and money portraying themselves as environmentally friendly than genuinely reducing their environmental effect. It's a deceptive advertising strategy used to earn favour with people who prefer to support firms that care about the environment. Greenwashing consumes valuable time and resources in the fight against environmental concerns such as changes in the climate, plastic ocean pollution, air pollution, and global species extinctions.<sup>2</sup>

Products are greenwashed by renaming, rebranding, or simply repackaging them. Greenwashed items may provide the impression that they are more natural, healthful, or chemical-free than rival brands. Companies have participated in greenwashing by advertising their clean energy as well as pollution reduction initiatives in press releases and commercials. In actuality, the company's commitment to green projects may be minimal. Greenwashing occurs when companies make baseless claims that what they sell are environmentally safe or give some sort of green advantage.

<sup>3</sup> Companies are eager to spread an environmentally friendly agenda as they know that while making purchasing decisions, consumers evaluate the environmental impact of items.

### **Impact of greenwashing on Corporate Social Responsibility**

Greenwashing is a spin on corporate social responsibility (CSR) in which a firm declares its commitment to supporting environmentally friendly practices while failing to follow through. Companies continue to make unjustified or misleading claims about the environmental benefits of their products, services, technology, and business strategies. It is, after all, an eyewash.<sup>4</sup>

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<sup>1</sup> McClimon, Timothy J. “Bluewashing Joins Greenwashing as the New Corporate Whitewashing.” *Forbes*, 3 Oct. 2022, [www.forbes.com/sites/timothyjmcclimon/2022/10/03/bluewashing-joins-greenwashing-as-the-new-corporate-whitewashing/](https://www.forbes.com/sites/timothyjmcclimon/2022/10/03/bluewashing-joins-greenwashing-as-the-new-corporate-whitewashing/), accessed 21 Apr. 2023

<sup>2</sup> Robinson, Deena. “What Is Greenwashing and How to Avoid It | Earth.Org.” *Earth.Org*, 13 Nov. 2022, [www.earth.org/what-is-greenwashing/](https://www.earth.org/what-is-greenwashing/), accessed 21 Apr. 2023

<sup>3</sup> “What Is Greenwashing? How It Works, Examples, and Statistics.” *Investopedia*, 31 Mar. 2023, [www.investopedia.com/terms/g/greenwashing.asp](https://www.investopedia.com/terms/g/greenwashing.asp), accessed 21 Apr. 2023

<sup>4</sup> “Greenwashing Is an Elusive CSR Attempt | the Financial Express.” *Greenwashing Is an Elusive CSR Attempt | the Financial Express*, 30 Sept. 2018, [www.financialexpress.com/opinion/greenwashing-is-an-elusive-csr-attempt/1332364](https://www.financialexpress.com/opinion/greenwashing-is-an-elusive-csr-attempt/1332364), accessed 24 Apr. 2023

Corporate Social Responsibility refers to the company's voluntary commitment to safeguard society and the environment, developing strategies that balance social and economic responsibility, and improving their possibilities for growth and competitiveness. Using the environment as the fulcrum of corporate initiatives can provide the company with possible benefits in terms of image, reputation, and trust.<sup>5</sup>

Companies can sometimes use greenwashing to "distract" customers. In reality, firms may conduct an advertising campaign on a certain product that is more eco-friendly than those normally sold in order to conceal other business sectors that have clear weaknesses in terms of environmental awareness and sustainable growth.

The issue with greenwashing is that it breaks down consumer trust in environmentally friendly products. Consumers may get disillusioned and begin to question the validity of all environmental claims made by firms when companies make false claims about the environmental benefits of their products. As a result of their inability to distinguish between legitimate and fraudulent claims, consumers may become less inclined to make sustainable decisions.<sup>6</sup>

## **Regulation of Greenwashing in different jurisdictions**

### **United Kingdom**

The Competition and Markets Authority (CMA) announced its Green Claims Code (Code) and related guidance in September 2021. The goal of this Code and guidelines is to assist businesses in understanding and complying with their obligations under prevailing consumer protection laws concerning environmental claims.

The Code and recommendations were published following an assessment of hundreds of websites and the "green" claims made on those pages. The audit's findings were alarming, with the CMA discovering that four out of every ten "green" claims made online may be misleading customers.

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<sup>5</sup> "Corporate Social Responsibility and the Risk of Greenwashing | SmartGreen Post | News About the Environment." *SmartGreen Post | News From the Environment*, 11 Jan. 2021, [www.smartgreenpost.com/2021/01/11/corporate-social-responsibility-and-the-risk-of-greenwashing](http://www.smartgreenpost.com/2021/01/11/corporate-social-responsibility-and-the-risk-of-greenwashing). accessed 24 Apr. 2023

<sup>6</sup> Tewari, Hemant. "Greenwashing: Indian Regulatory Context." *TaxGuru*, 6 Feb. 2023, <https://taxguru.in/finance/greenwashingcindian-regulatory-context.html> , accessed 2 May 2023

The CMA discovered vague statements and ambiguous language such as "eco" and "sustainable," discovered that firms were concealing or missing facts, and discovered that, in some cases, brands were inventing their logos that appeared to be some type of third-party authentication of their ecological credentials. The Code was created in response to the CMA's concerns about these practices.<sup>7</sup>

The Code sets out six principles specifying that environmental claims must:

1. Be truthful and accurate;
2. Be clear and unambiguous;
3. Not omit or hide material information;
4. Only make fair and meaningful comparisons;
5. Consider the full lifecycle of the product or their service; and
6. Be substantiated.

These are practical guidelines that should assist firms in making more compliant environmental statements across all media platforms. The new Code does not prohibit firms from making true environmental claims, but rather allows brands that can tell substantiated green stories to do so without being drowned out by those who offer unsubstantiated claims.

### **United States**

The United States Federal Trade Commission FTC and the United States Environmental Protection Agency developed a series of Green Guidelines to help businesses comply with the FTC Act when conveying environmental claims.<sup>8</sup>

The Green Guides were first issued in 1992 and were revised in 1996, 1998, and 2012. The guidance they provide includes: 1) general principles that apply to all environmental marketing

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<sup>7</sup> "Greenwashing: Exploring the Risks of Misleading Environmental Marketing in China, Canada, France, Singapore and the UK." *Gowling WLG*, <https://gowlingwlg.com/en/insights-resources/articles/2022/the-regulation-of-greenwashing/>. Accessed 2 May 2023.

<sup>8</sup> "Is Greenwashing Illegal." *Panaprium*, 8 Mar. 2020, [www.panaprium.com/blogs/i/is-greenwashing-illegal](http://www.panaprium.com/blogs/i/is-greenwashing-illegal). accessed 2 May 2023

claims; 2) how consumers are likely to interpret particular claims and how marketers can substantiate these claims; and 3) how marketers can qualify their claims to avoid deceiving consumers.<sup>9</sup>

The FTC requires the following general principles for environmental claims:

- The environmental message must be clear and prominent, taking into consideration relevant language and proximity to the subject.
- The environmental attribute should clearly refer to a product, a service, packaging, or a portion of any of these.
- The claim should not overstate the environmental benefit, explicitly or by implication.
- Any comparative claims should clearly present the basis for the comparison.<sup>10</sup>

## **India**

Green bond securities are regulated in India by the Securities and Exchange Board of India (SEBI). Regulation 2(1)(q) of the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 ('NCS Regulations') defines 'green debt security' as debt securities issued to raise funds for renewable energy, clean transport, sustainable water management, climate change adaptation, energy efficiency, sustainable waste management, and biodiversity conservation projects. The guideline fails to address the issue of 'greenwashing,' which may have an impact on investor trust and is contrary to the current government's green economy strategy.

However, SEBI has issued a circular dated 3rd February, 2023 relieving investor concerns about greenwashing and laying out some broad rules for bond issuers to follow while issuing green securities to avoid greenwashing. They state, among other things, that the issuer of green debt securities shall not employ misleading labels, hide trade-offs or cherry-pick data from research, make false claims giving the impression of certification by a third-party entity, and the issuer shall always maintain the highest standard associated with the issue of green debt securities while

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<sup>9</sup> "Green Guides." *Federal Trade Commission*, 31 Oct. 2018, [www.ftc.gov/news-events/topics/truth-advertising/green-guides](http://www.ftc.gov/news-events/topics/truth-advertising/green-guides). accessed 2 May 2023

<sup>10</sup> "Is Greenwashing Illegal." *Panaprium*, 8 Mar. 2020, [www.panaprium.com/blogs/i/is-greenwashing-illegal](http://www.panaprium.com/blogs/i/is-greenwashing-illegal). accessed 2 May 2023

adhering to the rating assigned to it. The circular also calls for continual disclosure and monitoring of the issuer's green operations, as well as if they pragmatically result in a reduction of the negative environmental impact while adding to a sustainable economy. Sebi has also urged issuers to alert investors and allow early redemptions if a majority of investors request it if they discover that the money received from green bonds is being invested in asset classes other than those listed above.<sup>11</sup>

## **Conclusion**

Greenwashing is a major issue in India, undermining consumer trust in genuine ecologically beneficial products and services. The existing regulatory system does not effectively address the issue of greenwashing. There are no globally relevant guidelines for preventing and combating greenwashing. In order to combat this issue, more legislation, inspection, and consumer education are required, which would otherwise make litigation against corporations that engage in 'greenwashing' difficult. Governments, non-profit organisations, and consumers can all work together to guarantee that clean investments preserve the environment and that firms are held accountable for their activities.

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<sup>11</sup> Tewari, Hemant. "Greenwashing: Indian Regulatory Context." *TaxGuru*, 6 Feb. 2023, <https://taxguru.in/finance/greenwashingcindian-regulatory-context.html> , accessed 7 May 2023