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Preventing Greenwashing in India: Analyzing Legal Measures for Enforcing Corporate Environmental Compliance in India Measure

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Name of Author:

Mudit Jain¹, ASHA VERMA²,
PRASANANSHU³

Affiliation:

¹Ph D Scholar (Law), Manav Rachna University,
Sector - 43, Delhi-Surajkund Road, Faridabad -
121004, Haryana, India

²Prof Dean, School of Law, Manav Rachna
University, Sector - 43, Delhi-Surajkund Road,
Faridabad - 121004, Haryana, India

³Professor, National Law University, India, Golf
Course Road, Pocket-1, Sector-14, Dwarka, New
Delhi 110078

Corresponding Author:

Mudit Jain
muditjain08@gmail.com

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Abstract: Sustainable Development has perhaps become the need of the hour. The business houses have emerged to be the greatest offenders and culprit behind the worsening environmental conditions and are often asked for become eco-friendly in their operations. Owing to this pressure of becoming eco-friendly, they indulge in malpractices in the form of making false and bogus environmental or green claims about their products, and business operations etc.. These bogus green claims include pretending to manufacture green products using technology which is non-hazardous in nature and the same is being advertised via various modes like T.V., Newspapers etc.. This is done with the objective of reading goodwill amongst the public and to satisfy the greed of earning revenue by increasing customer base.

The said practice of making false green claims about the products as well as services rendered by the corporations is often called Greenwashing. This practice erodes public confidence and trust. This practice is slowly becoming a major issue in the Indian market as business houses often mislead the customers about green claims of their products and services just for minting money. They not only play with customers' trust but with their health and the environment in which they live just for the sake of earning revenue. This illicit business practice has become a great hurdle in ensuring sustainable development of the state. The present paper tries to analyze the effectiveness of contemporary Indian laws like the Environmental Protection Act, 1986, the Consumer Protect Act, 2019 and Companies Act, 2013 etc. for dealing with the issue of Greenwashing. The authors also sought to make certain recommendations for taking effective legal action towards such practices.

Keywords: Greenwashing, Corporations, Environment, Consumer, and Sustainable Development.

INTRODUCTION

Words like 'Eco-friendly' and 'Natural' etc. have become buzzing words these days. People, corporations, State and Non-State actors keep on stressing to consume eco-friendly products and services and also to adopt a sustainable lifestyle. With government regulations and growing consumer awareness about the benefits of an eco-friendly

lifestyle, companies are being compelled to adopt sustainability in their operations.

The rapidly growing consciousness towards the environmental issues like global warming, plastic pollution, destruction of forest etc. and their effects on the ecosystem of earth, is compelling the world to become more environmentally conscious. The exploitation of natural resources especially their

commercial exploitation by the companies is another major cause for environmental disaster. However, with the growing consciousness towards environmental protection and conservation all over the world, corporations and business houses are being compelled to become green and carry on their business operations in a sustainable manner.

In order to deal with the growing issue of Greenwashing, India has framed laws, rules and regulations along with establishment of several regulatory bodies. The objective behind doing this is not only to spread awareness about the issue of greenwashing by companies but also to apprise consumers with the existing legal framework existing in the nation against the menace of greenwashing. People may not be aware about such illicit business practices being used by the companies in the name of selling or providing environmentally friendly goods and services and they easily become prey to such business tactics. The misleading environmental claims of the companies not only affect the consumer financially but also impede them from living a wholesome life. Many times consumers keep on using such products and services for a long time, thinking them to be no or harmless to the environment, however, in reality it may be different.

Research Methodology

The present paper is exploratory in nature which seeks to explore the concept of Greenwashing in India and the existing legal framework for preventing it. The researchers have adopted doctrinal methods using primary sources like statutes (Consumer Protection Act, 2019, Environmental Protection, Act 1986 etc.) and secondary sources like books, articles etc.

Research Objectives

The present paper seeks to achieve the following objectives:

1. To understand and explore the concept of Greenwashing
2. To know the effect of Greenwashing in India
3. To explore the existing Indian laws for dealing with the issue of Greenwashing
4. To find out challenges for dealing with the menace of Greenwashing and making suggestions for dealing with such challenges.

Factors Responsible for Greenwashing

Increasing Demand for Sustainable Products:-

Indian consumers, particularly the educated consumers are becoming more conscious about using green and sustainable products. They are being driven by the instinct of living a sustainable life and have an inclination towards using eco-friendly goods and services. This change in the thinking of the consumers have forced the companies to adopt greenwashing

strategy for advertising or marketing their products and services as eco-friendly and natural. The companies make vague claims about the eco-friendliness of its products and services without being verified by third parties. Many times certain brands claim that they use sustainable practices in their business operations but in reality they consume huge amounts of resources like water in their manufacturing process. Companies know that hardly any consumer bothers to discover the reality about the sustainability of the product or services or the mode of carrying out their business. Thus, they market their product or services in such a way that it appears to be eco-friendly without providing any supporting documents.

Cultural Influx: -

The traditional knowledge system of India like Ayurveda, organic farming etc. leave low carbon-foot prints. The products made by such knowledge are eco-friendly and harmless to the environment. Indian people have a belief that the products produced through such knowledge will not be harmful to the environment and the environment and prefer using such products than any other product available in the market. Further, being a part of Indian culture the products so produced by such knowledge are being used in various religious and cultural processions like marriage etc. The companies with the view to create demand for their products often associate their products with ayurveda, claiming to be produced by using traditional knowledge. They claim that their products have all the essentials as mentioned in the traditional knowledge and are thus good for health and environment, with the view to lure customers towards them. However, in reality the product or the business practices may be far away from what is being mentioned in the Indian knowledge system. The products claim to be organic or grown from the Indian knowledge system and mainly have harmful ingredients.

Misusing of Green Funds:-

Companies often raise funds from the public claiming that the funds will be used for sustainable purposes like for construction of buildings, commercial markets etc. They further market their products in a way that the consumers are being lured to such an extent that they feel that their money will be spent on activities like tree plantation or installation of solar panels in rural areas. However, in reality the funds may be spent by the businessman for his own use or for any other thing which may not be sustainable. The corporate sector instead of using these green funds for the purpose for which they ought to have been used, the funds are being spent on buying luxuries of life either indirectly through some shell companies.

Fulfilling CSR Mandate

Certain Indian Companies are under a legal obligation under section 135 of Companies Act, 2013 to spend a certain amount of their profits on social activities like environmental protection etc. In order to fulfill this requirement the companies either adopt sustainable practices or spend on sustainable practices undertaken by some third party. However, in reality the funds may be utilized for some other activities and on record it may be shown that the funds are being used for some green initiative as part of the CSR policy of the company.

The 7 Sins of Greenwashing

TerraChoice Environmental Marketing have categorized seven sins of greenwashing as follows:-

1. Sin of vagueness:- Making claims by using vague terms like “all natural”, “eco-friendly” for marketing the products. Such terms are not well-defined and often misunderstood.
2. Sin of Hidden Tradeoff:- Companies often highlight one green attribute while ignore the other like claiming that the product is being made from eco-friendly products or organic in nature but does not mention the forest being cleared for cultivating organically.
3. Sin of no Proof:- No certification or any evidence is being provided by the company for substantiating that the product offered is eco-friendly in nature. The eco-friendly claims are rarely being substantiated by the company.
4. Sin of Worshipping False Label: Creating an impression amongst the consumers that the product has been certified as eco-friendly by a third party by putting a false label or certification mark.
5. Sin of Irrelevance: making any eco-friendly claims which may be of no relevance because of law or change in technology etc. like setting that product being CFC free where the existing law already puts a complete ban on CFC.
6. Sin of Lesser of Two Evils: At times the company produces such products which falls within a category of products which are not considered to be eco-friendly in nature, however, the company claims it to be relatively less harmful to the environment like organic cigarettes.
7. Sin of Fibbing: Making claims which are simply false or fake in nature.

Case Studies of Greenwashing in India:-

a. Godrej Industries: Godrej group being one of the oldest business houses in India and are often regarded as one of the socially responsible entities. However, this business house is being penalized at

various instances by Advertising Standards Council of India for falsely claiming its ‘ Good Knight Fast Card’ mosquito repellent and its ‘Godrej No.1 soap’ to be 100% natural and chemical free despite containing chemical and synthetic materials.

b. Mamaearth and Chemical Free tag: Mama earth being a well known brand for producing and dealing with eco-friendly wellness products. They also have a marketing tagline “we plant a tree with every order”. However, Beauty Wellness India in its analysis found that various Mamaearth’s products contain ingredients like propylene glycol etc which though are safe in regulated doses but are misleading in terms of “no toxins” claims.

c. Heart Healthy Claims of Saffola: Saffola product of Marico claims to be India’s best heart-healthy oil. The advertisement promises to provide an edible oil with low oil absorption, antioxidant-rich formula and control on cholesterol level. The advertisement appears to be sound and healthy but on a closer look it appears to be inconsistencies and gaps. Marico was fined by ASCI for making misleading advertisements.

Indian Legal Framework for Preventing Greenwashing:-

Greenwashing has become a global issue especially for developing states like India. In order to curb and tackle the issue of greenwashing in India, the Indian Government has passed various legislations like Environmental Protection Act, 1986, Companies Act, 2013, and the Consumer Protection Act, 2019. Etc.

1.Consumer Protection Act, 2019 :

The act was formulated for safeguarding the interest of the consumers against The Consumer Protection Act, 2019, serves as the foundational law for protecting consumer’s interest and providing framework for dealing with consumer disputes. It also serves to be a basic law against greenwashing. S. 2 (28) of the Act defines misleading advertisements comprehending any false description about product or service, or making false claims regarding quality, nature and quantity of the product and service. S. 2 (47) defines unfair trade practice which includes any practice which is deceptive in nature like making false representation regarding quality, nature and standard of the product or service, making any false claim to have sponsorship or affiliation or certification from any authority or institute. S. 89 penalizes for making any false or misleading advertisement. The central government by virtue of S. 94 allows the powers to frame measures for preventing any unfair trade practice on online platforms. The act also establishes various regulatory bodies like District Commission, State Commission, National Commission for dealing with the consumer disputes

2. Environmental Protection Act, 1986:

The Environmental Protection Act, 1986 is a comprehensive legislation with the objective to protect, safeguard and improve the environment of the nation. It is complementary to the Consumer Protection Act, 1986 by providing a framework for environmental accountability. The act if not directly but indirectly deals with the issue of greenwashing by making corporate houses responsible for making misrepresentations regarding environmental compliance. The legislation penalizes for making false claims of adhering to environmental standards as prescribed in the Act. S. 6 of the Act allows the Central Government to frame rules for regulating environmental pollution inclusive of the prohibitions and restrictions on the handling of substances which are hazardous in nature alongwith prescribing procedures and safety measures to be taken care while handling such substances. S. 7 and 8 of the Act prohibits persons from emitting environmental pollutants beyond the standards while carrying on any industry, trade or operation and to handle hazardous substances with procedural safeguards. S. 9, and 10 of the Act makes it mandatory for the persons or the corporation to furnish information to the authorities regarding environmental pollutants , it also gives power to the central government to enter and inspect any industrial unit, record or any register etc. and to seize the same if it is needed to prevent and mitigate environmental pollution. S. 16 makes the company and its members directly liable for any non-compliance to the provisions of the Act.

3.The Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022

In order to prevent the menace of false and misleading advertisements along with making false endorsements the the Central Consumer Protection Authority had issued certain guidelines. S. 4 of the guidelines state the conditions for non-misleading and valid advertisement like advertisement must be a truthful and honest representation and shall not mislead consumers about the quality, content and other aspects of the products. S. 6 prohibits surrogate or indirect advertisements which involve advertisements of those goods or services whose advertisements are forbidden by law in the name of those goods which are allowed by law. S. 12 deals with the duties and responsibilities of manufacturer, service provider, advertiser and advertising agency like ensuring that the ads shall never contain any description or visual representation which may mislead consumers etc. S. 14 states that in case of any connection between the endorser and the trader, manufacturer, which may materially affect the value or genuineness of the endorsement, the link shall be disclosed and communicated to the consumer.

4.Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims, 2024:

With the view to prevent the issue of greenwashing and misleading environmental claims, the Central Consumer Protection Authority (CCPA) formulated guidelines for Prevention and Regulation of Greenwashing and Misleading Environmental Claims. The guidelines deal with misleading advertisements which tend to go against the interest of the consumer. The broader objective of these guidelines is to ensure that the environmental claims are true and meaningful, for improving and building consumer trust and encouraging businesses to adopt sustainable practices. The guidelines seek to provide clear definitions for Greenwashing and environmental claims in order to achieve a common understanding about the same between the businessman and consumers. It also seeks to prohibit the use of generic terms like “eco-friendly”, “green” and “sustainable” etc. without being substantiated with adequate proof. The act makes it mandatory to have an independent verification of the environmental claims and if enforcement takes place then it should be by any organization or experts coming from credible, legally recognized institutions and not from any non-official source.

While using any technical terms like ‘Green House Gases’, consumer friendly language should be used giving proper meaning and explanation of the term. The guidelines impose responsibility on the companies to make a clear and accessible disclosure of all material information about the product, manufacturing process, etc. Environmental claims shall be supported by reliable certification or scientific evidence. The guidelines allows the CCPA to impose penalties against any offenders of the guidelines and also allows the consumer courts to impose heavier penalties in case of any act done in contravention to the guidelines.

5. SEBI's Circular for Guiding Issuers Of Green Debt Securities (Green Bonds) :

SEBI has issued a circular for guiding issuers of green debt securities (greenBonds) with the view to prevent greenwashing. It seeks to make companies adhere to disclosure requirements, third-party certification and provide guidelines for using proceeds. It also seeks to ensure transparency in business operations and prevent the issuers of green bonds or securities from making any false or misleading environmental claims over the prospective projects in which they want investment from the investors.

As per the circular the issuing company is required to continuously monitor business operations for ensuring that they are in accordance with the intended purpose of the investment. It also prohibits

the companies from making any misleading claims or hiding any information with the view to attract investors towards their project. The circular also directs levy of financial penalties by SEBI against the issuers if they are found making any false or fabricated environmental claims.

Greenwashing vs. Greenblushing

Green washing and Greenblushing are two opposite sides of a corporation's environmental performance and communication. Both of them deal with the environmental accountability and responsibility of the corporation.

Greenwashing refers to making false claims or misleading advertisements by the company stating that the product or services provided by them are environmentally friendly but in reality they are not. It tends to create a false image of the company that it is concerned about the environment and conducts its business operations in a sustainable manner but in reality they may not. It is done with the intention to create an eco-friendly image of the company amongst the public for attracting the consumers to purchase their product and services. It is known to be an unfair trade practice and is being prohibited by law.

On the contrary Greenblushing involves the act of downplaying or under-communicating a corporation's environmental and sustainable performance. It can be because of the fear of being accused of greenwashing. It is not considered to be an unfair trade practice however, it prevents firms from availing opportunities to inform the public about the sustainable practices being undertaken by them.

Affect of Greenwashing on Companies:

Practicing Greenwashing tactics in business operations can severely affect the firm in the long run in many ways ranging from legal consequences to loss of reputation in the market. The effect of greenwashing on company's reputation can be explored in different ways like

1. Legal Consequences: There are laws and regulations along with enforcement agencies to keep a check over such illegal and unethical practices of the companies. Exposure of greenwashing tactics of the companies can make them liable under various laws and regulations. The companies can be penalized heavily by the regulatory authorities and the members involved in such tactics may be sent to jail. Further, there are changes that the company may be prevented from entering into any business transaction or may be blacklisted by the government.

2. Loss of Reputation and Confidence: It takes a long period of time for the company to create and build public trust and confidence. This trust is

necessary for any business to survive in the long-run and helps to create loyal customers. However, if a company is engaged in greenwashing and the same is being exposed then the company loses all its goodwill and public confidence. Such exposure shakes and breaches trust of various stakeholders including investors who have either invested in the company or are willing to invest in it, employees, customers etc. Further, if at any time such trust and confidence is breached then it may become an irreparable damage for the company.

3. Difficulty in Getting Financial Aid: Exposure of Greenwashing tactics of the company may make it difficult to get any sort of financial assistance. No person, bank or any entity will be interested in investing or giving any sort of financial aid to such a company which was involved in greenwashing activities. Greenwashing is simply an act of defrauding customers or investors about the environmental claims of the company. Any such fraud committed by the company affects the trust of the individual or any institution who may be willing to invest in the company. Further, if company is able to get any sort of financial assistance than the same might be subjected to strict terms and conditions. Challenges for Dealing with Greenwashing in India Greenwashing no doubt is a critical issue and needs to be addressed effectively. The government has formulated laws and established agencies for preventing the issue. However, the issue continue to persists due to following reasons:-

1. Limited Resources: The regulatory bodies and its personnels have limited resources for checking the issue of green washing. The companies often resort to complex and sophisticated detective tactics which cannot be identified and prevented without having advanced equipment. This makes anti Greenwhashing laws ineffective.

2. Complex Environmental Claims: The environmental claims of the companies are often complex in nature and can only be tested if we have adequate knowledge and resources. This makes it difficult for the regulators to assess if the claims are genuine and accurate.

3. Lack of Consumer Awareness: India is a consumer market wherein most of the consumers are either illiterate or have very low literacy level. Further, very few of them know about the ways to check and identify whether the product is eco-friendly or not. Further, they may not know about the technical terms being used by the companies for selling their product and services like 'eco-friendly'. Many consumers are completely unaware about their rights of being a consumer and also the legal mechanism for exercising their rights. This provides

companies an opportunity to undertake greenwashing activities without being caught.

4. Corruption in Administration: One of the biggest flaws of the Indian Legal Framework is its inability to prevent and curb corruption especially amongst the administrative agencies. The regulatory bodies so established for preventing Greenwashing or for penalizing acts of Greenwashing often fail in achieving its target due to corruption amongst its personnels. The companies give bribes to the agencies and personnels for making false reports that the company's product is eco-friendly etc. This not only loses the trust of the consumers upon the legal system which seeks to protect them but also makes the laws effective in nature.

Recommendations

Greenwashing is a detective and unfair trade practice being adopted by the companies, in order to show that they are complying with the environmental norms of the State. Legal framework so formulated for dealing with this menace of Greenwashing though sounds to be effective but suffers from certain defects like Corruption in administration, lack of resources etc.. Therefore in order to deal with such issues the following recommendations can be adopted.

Institutional and Societal Challenges

The progressiveness of the POSH Act notwithstanding, there are several institutional and social barriers that persist and retard efficient redress of workplace sexual harassment. Underreporting There are many persistent challenges for victims, amongst them the issue of underreported sexual violence including a culture of disbelief, victim-blaming and fear of reprisals, which deters victims from coming forward. Internal Complaints Committees (ICCs) are supposed to be established by law, but in most cases they are not able to perform their task independently, are lack proper training, do not know about gender sensitivity, and consequentially are biased on their proceedings. "Sexual harassment" is under-reported in the workplace, not at all, as retaliation against and stigmatization of those complaining is prevalent, with various penalties, such as character & reputation assassination, professional shunning, and employment discharge being employed to silence fighting. On top of this, mental health assistance is severely lacking, with few workplaces providing trauma-informed counselling or a means to deal with the emotional wreckage carried by survivors. These failures are indicative of a wider societal unwillingness to confront gendered power dynamics, where maintaining institutional reputations is prioritised over justice for survivors. As long as these systemic gaps are not addressed through reforms, legal protections are not enough.

Case Studies and Data Insights

Statistical data and case studies across nations show that workplace sexual harassment is a deeply rooted worldwide problem compounded by cultural, legal, and institutional obstacles. In India, more than 70 percent of female professionals have experienced sexual harassment at their workplaces — this according to a survey conducted in 2021 by the Indian Bar Association — but only 14 percent among them feel empowered enough to file formal complaints, revealing a telling trust deficit in institutional redressal mechanisms. In the US, the #MeToo movement brought a high-profile spate of work place harassment reporting, but the Equal Employment Opportunity Commission (EEOC) has reported that a full three-quarters of the time claims still go unfiled; the fear of retaliation and lack of confidence in a just outcome are the main reasons. In Japan, on the other hand, even though the Power Harassment Law was passed in 2019, cases are widely underreported. This can largely be blamed on cultural norms, which prize harmony and conformity over confrontation, making victims of sexual abuse less likely to come forward. Taken together, these varied examples serve to underline the simple fact that legal structures aside, attitudes and culture in society and at workplace and the willingness of the institution matter in terms of the effectiveness of redressal mechanisms and in supporting survivors of workplace sexual harassment.

Recommendations

In order to more effectively respond to the problem of workplace sexual harassment, and the myriad harms it causes, a more comprehensive, multi-faceted response is needed, one that targets not only the legal deficits but also the psychological, institutional, and social and cultural impediments to justice and healing for survivors.

1. Fostering Green Innovation: The companies and businesshouses shall promote and cherish innovative ideas especially one which seeks to protect and improve the environment. They can even organize some competition like hackathon or green ideathon wherein persons from the public are invited to share their ideas in the form of eco-friendly products and services and the company may adopt them in its business operations by giving some incentive against such ideas.

2. Stronger Government Regulations and Enforcement: As earlier mentioned the evil of Greenwashing can only be prevented effectively if the government and its instrumentalities are willing to prevent it. For this not only strict laws are required against any act of Greenwashing but effective enforcement of such laws by the concerned agencies

is also much needed. Corruption amongst such agencies and personnels is required to be handled and stopped strictly.

3. Assistance of AI: The regulatory bodies shall resort to development and adoption of AI tools for scrutinizing reports and environmental claims of the companies, with the aim of detecting any instance of Greenwashing committed by the company. Due to complexity in the environmental claims of the companies, it becomes difficult for the regulatory bodies to detect greenwashing by the companies, thereby assisting them in carrying on unfair trade practices involving making false environmental claims. However, use of AI in scrutinizing Environmental claims of the companies will keep a check over such detective trade and marketing practices by the companies.

4. Becoming Aware about Greenwashing: One of the ways to prevent Greenwashing is to become aware about such tactics being used by the companies. If consumers know the meaning and the ways the companies mislead them in the name of providing eco-friendly products and services, they will be in a position to boycott such products or companies. State and Non-State actors should launch Anti-Greenwashing campaigns making consumers aware about the same and how to identify and report about such tactics. The print and social media platforms can be used for showing the clips or evidence about the reality of such eco-friendly claims of the companies.

Conclusion

Greenwashing is a menace, which is being practiced by the Indian companies in various forms. Greenwashing is not only against the interest of the consumers but in the long-run it also goes against the benefit of the company doing it as once exposed it ruins the trust and confidence of the consumer of the company and its product. Various legislations have been formulated which either directly or indirectly deal with the issue of greenwashing but the problem still persists to exist due to certain reasons like lack of consumer awareness about the idea of greenwashing, limited resources and technical know-how to detect and prevent such menace. It is necessary for state actors, consumers and companies to realize the importance of creating a sustainable market which at one end produces goods and services which caters the needs of consumers, generates enough revenue for the business houses but also does not result in any damage to the environment. One way for ensuring creation of such a sustainable market is by preventing and prohibiting Greenwashing in any form it exists.

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