



Another step towards Consumer Protection - quell Greenwashing

❖ What is Greenwashing?

Deceptive practices used to make a product or service seem more environment friendly than it actually is,

- ✓ Hiding or downplaying negative environmental impacts;
- ✓ Making vague, exaggerated, or false claims about environmental benefits; and
- ✓ Using misleading symbols, imagery, or wording that implies eco-friendliness.

❖ What are Environmental Claims?

These are statements suggesting a product or service to be environment friendly. This can include claims about:

- ✓ the product itself (materials, manufacturing, use, disposal);
- ✓ the service and how it's provided; and
- ✓ positive environmental impact, sustainability, or reduced harm compared to alternatives.

To limit greenwashing strategies that include unsubstantiated environmental claims employed by companies and service providers to increase revenue, Draft Guidelines for the Prevention and

Regulation of **Greenwashing**, 2024 (“**Draft Guidelines**”)¹ were released by the Central Consumer Protection Authority (“**CCPA**”) under the Consumer Protection Act, 2019 (“**Act**”). Under the Act CCPA has been given powers to regulate and penalize businesses that indulge in false and misleading advertisements. This was issued in the backdrop of prohibiting false and misleading advertisements.

The Draft Guidelines have been issued under the Act to prevent **Greenwashing** of **Environmental Claims** through any such advertisements or marketing statements by service providers.

➤ **Service Provider?**

Person who provides service of any description to a potential user.

➤ **Who is this relevant for?**

Applicable to service provider, product seller, advertiser, or an advertising agency or endorser whose service is availed for the advertisement of goods or services with an **Environmental Claim**.

➤ **Disclosures under the Draft Guidelines**

- ✓ Made only to consumers and not to CCPA.
- ✓ Disclosures entail all material information relating to the advertisement or communication.
- ✓ Specific **Environmental Claims** like carbon offsets and carbon neutral have to be backed by the following disclosures:
 - Credible certification: An established organization verifies the claim is true.
 - Reliable scientific evidence: Scientific studies support the claim.
 - Independent third-party verification: An unbiased source confirms the claim.

➤ **Verification of Environmental Claims**

While the Draft Guidelines have provided and detailed an inclusive list of terms which will require substantiation under the Draft Guidelines the consumers will have to stay aligned with provisions of other laws laying down the relevant qualifiers for such terms.

➤ **Not applicable to...**

- ✓ Claims that are an obvious puffery of the service or product; and
- ✓ Generic statements that are not making any **Environmental Claims** specific to any products.

¹ <https://pib.gov.in/PressReleasePage.aspx?PRID=2007403>

➤ **Penalty for non-compliance**

10 lakhs to 50 lakhs as per the discretion of CCPA under the Act.

➤ **Global Initiatives**

While other jurisdictions are yet to implement such Draft Guidelines, certain initiatives are being taken by the following countries:

➔ **Singapore**

The Competition Commissions of Singapore is in the process of the implementing a similar set of Draft Guidelines that can protect consumers from misleading conducts of suppliers leading to **Greenwashing**.

Here **Greenwashing** is defined as *a supplier's conduct that deceives or misleads consumers into believing that the supplier's practices or goods and services, are more environmentally positive or have greater environmental benefits, than is indeed the case.*

➔ **European Union**

Similarly, the European Parliament is also working on updating its existing consumer protection regulations by integrating regulation of **Environmental Claims** to avoid **Greenwashing**.

It is important to note that **Greenwashing** is currently not clearly laid down by the above jurisdictions.

➔ **GENICES**

Currently India is a part of the Global Ecolabelling Network International Coordinated Ecolabelling System ("**GENICES**") under which the Bureau of Indian Standards (BIS) issues certifications for recognising environmentally safe products to avoid **Greenwashing**. A lot of countries including the United States, European Union, Singapore, Japan, Hong Kong, Australia China, Korea are a part of GENICES.

➤ **What Next?**

The Indian Ecomark Scheme is a green label issued by BIS under GENICES. Given that it is a globally recognised metric for ascertaining the ESG profile of goods and services it may be accepted as a valid qualifier to substantiate **Environmental Claims** for those products.

We would advice market participants to watchout for any specific regulations governing reporting requirements and verification of ESG related products traded in the market given that the Draft Guidelines are subjective to other laws.

While currently the government is in the process of introducing proper laws to regulate trading in products such as carbon credits² and green credits³ on a voluntary as well as compliance basis under the comprehensive framework we can expect there to be proper laws that will be laying down the qualifiers to verify greenwashing of **Environmental Claims** made by other service providers as well.

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² <https://www.sebi.gov.in/legal/master-circulars/jul-2023/master-circular-for-esg-rating-providers-erps-73856.html>

³ <https://egazette.gov.in/WriteReadData/2023/249377.pdf>

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