

## **THE FINE LINE BETWEEN GREEN BRANDING AND GREENWASHING: TRUTH IN A SUSTAINABLE MARKETPLACE**

- Avirit Ghosh<sup>1</sup>

### **Abstract**

The rise in demand of sustainable products among the consumers has driven a surge in “Green” brand claims which aims towards using environmental performance as one of the key competitive advantages. This paper deals with the concepts of Green Branding which is an authentic market practice and Greenwashing which is a deceptive trade practice aimed at exploiting consumers with hollow promises.

As a result of these defective trade practices harsh legal countermeasures are being implemented. The regulatory bodies and courts are focusing closely on trademarks as a means of false advertising demanding the companies to abandon cosmetic branding and shift their focus to actual sustainable and verifiable performance which is backed by data which proves the brands claims. This paper explores the strategic importance and authenticity within contemporary green branding efforts, arguing that truthful and transparent communication is essential not only for ethical reasons but also for long term corporate success. It also examines how the concept of greenwashing manipulates through ambiguous language and selective disclosure to the consumers. It further examines how these practices damage trust and dilute legitimate sustainability efforts of other brands and often attract penalties from regulatory bodies. Ultimately, the discussion positions authenticity as a strategic mandate. In this context brands that invest in genuine environmental action and communicate with clarity and accountability are better positioned to cultivate trust, foster long term loyalty from consumers and are better able to navigate the increasingly complex terrain of sustainability driven markets.

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### **Introduction**

Following the current market trends companies have shifted their focus of environmental consciousness from a niche area to a common practice. In other words, it can be assumed that the companies treat this as a priority in order to gain trust from the consumer. Consumers welcome the brands which are complying with the rising sustainable expectations of the society. As a response to this social behavior companies have implemented strategies that highlight environmental benefits of their products or commitments toward the safekeeping of the environment. This strategy is often referred to as “**Green Branding**”.

However, this sudden rise in the demand of sustainable products have given rise to a tussle between genuine sustainability efforts by brands and superficial or misleading claims that are resulting in rapidly declining consumer trust.

#### **1. Understanding Green Branding and its key dimensions**

The concept of **Green Marketing** was first introduced by academicians Michael Jay Polonsky and Caroline W.F. Everitt in the late 1980s and early 1990s.

Green branding is academically defined as a practice of integrating ecological and social sustainability by a brand across its products enhancing its identity and operations. It helps in increasing consumer trust and promotes responsible consumption.

#### **Key dimensions of green branding with primary examples:**

- **Purpose driven identity:** Brands should articulate a clear sustainability mission as part of their outlook that aligns with their long-term goals
- **Product Level Integration:** Brands should encourage the use of renewable materials aiming to recycle thus minimizing waste.
- **Operational Alignment:** The brands should aim at resource optimization by adopting efficient distribution systems.

The brands which employ these strategies effectively gain advantages such as enhanced customer loyalty, premium market positioning, and alignment with global regulatory norms. Most important of all it fosters a sense of responsibility.

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**Some primary examples of authentic green branding:**

- **Patagonia:** Patagonia's Worn Wear program is a sustainability driven initiative which is aimed at extending the life of its gear through repair, reuse and trade ins motivating consumers to recycle has proved to be an outstanding example of reducing waste and unnecessary consumption. The company follows a circular economy model and this initiative forms the basis of their core by turning used items into new opportunities for use for consumers.
- **Adidas collaborating with Parley:** The German multinational sportswear and footwear in collaboration with Parley for the Oceans which is a global environmental organization announced its new line of shoes made majorly from ocean plastics and waste which is collected from remote islands, beaches, coastal communities and shorelines. Raising the consciousness among its customers about environmental safety and ocean threats.
- **Tesla:** The American automobile company actively markets their electronic vehicles as their primary product and promotes the idea of green energy. The electronic vehicles create a brand identity centered around decarbonization to counter pollution and global warming. Additional features like Solar Roof and Powerwall fortifies the idea of product level integration and green branding.
- **TATA Consumer Products:** The TATA group has introduced the "Aalingana" initiative where the brand has integrated sustainability as one of the core concepts by promoting 100% recyclable packaging for their FMCG products like the TATA Tea and TATA Salt and their beverage portfolio. Additionally, using the Trustea Certification (A sustainability code for the Indian Tea Industry that tracks soil health, water use and labour rights at the plantation level) for their packaging.
- **ITC Hotels:** The ITC Hotels are among the first hotel chains in the world to promote the idea of "Responsible Luxury" as its core brand identity. As of 2026 twelve of their hotels have attained the Leed Zero Carbon Certification meaning these hotels have the ability to procure or produce as much renewable energy as they consume. They introduced the "Zero Mile" water program known as the Sunya Aqua where they treat and bottle water on-site in glass bottles to prevent wastage from single use plastic water bottles.

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- **Ather Energy:** It is an Indian electric two-wheeler manufacturer based in the city of Bengaluru co-founded by Tarun Mehta and Swapnil Jain in the year 2013. Ather is different from other EV brands in India as it has been very transparent from the beginning about the dark side EV's which is battery life and mineral sourcing. To maintain this transparency with their consumers Ather publishes a detailed impact report that breaks down the lifecycle of their batteries. The brand also has a buyback program to buy the recycle the used batteries to ensure that the lithium-ion components don't end up in Indian landfills.

## 2. Green Washing and its types

Green washing<sup>2</sup> is generally understood as a deceptive form of marketing or advertising that aims to persuade the public that an organization's goal, products and policies are environment friendly. According to the Concise Oxford English Dictionary Green Washing is defined as "disinformation disseminated by an organization so as to present an environment friendly public image, but perceived as being unfounded or intentionally misleading".

In simpler words greenwashing occurs when a company makes fabricated claims or selectively presents information about its environmental performance.

**Green Washing as a Decoupling Behaviour:** One of the critical conceptual frameworks with respect to the practice of greenwashing is the concept of Decoupling Behaviour. This refers to the typical organizational tendency to separate symbolic environmental efforts such as public claims from substantive environmental performance. Greenwashing is often seen as a deliberate corporate action intended to mislead the consumers regarding the environmental benefits of the product on environmental practices of the brand or company.

**Identification of Greenwashing<sup>3</sup>:** In order to identify a greenwashed product making vague claims the researchers have pointed out the importance of external scrutiny signifying the concept of "**Element of Accusation**". Greenwashing emerges as a practice when a charge or a claim is brought upon by a third party such as an activist, a competitor or a regulator.

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<sup>2</sup>Vrinda Harmilapi, *Eco-Friendly or Greenwashed? Trademarks in the Greenwashing Era*, C&C IP (Sept. 11, 2025)

<sup>3</sup>S.S. Rana & Co., *Green Trademarks and Greenwashing*, S.S. RANA (2024), <https://ssrana.in/articles/sustainability-green-trademarks-greenwashing/>.

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This dependence on external accusations means that the organization cannot control when they are to be identified as engaging in deceptive practices. The brands can only control the strength and availability of defensive mechanisms of their substantiative claims.

This external control mechanism is generally driven by NGO vigilance and regulatory enforcement systems effectively increasing compliance standards in the market. This structural dynamics of external vigilance acts a crucial aspect of sustainable economy, compelling brands to prioritize truthfulness over a marketing gimmick.

**Categories of Green Washing<sup>4</sup>:** One of the recognized frameworks for categorizing different forms of greenwashing is the “**Analysis of Seven Sins**” primarily coined by **Terra Choice** a Canadian environmental marketing agency. The Seven sins of Greenwashing are as follows:

1. **Sin of the hidden Trade-off:** A brand that claims that their product is green based on a narrow set of features without ever disclosing the full spectrum oof environmental issues, like the manufacturing impacts while promoting recycled content.

**Example:** Recyclable packaging claims by Nestle where in reality the brand remains as one the largest producers of plastic waste. The brand claiming to use recyclable packaging diverts consumer attention from the overall plastic production and waste.

2. **Sin of No proof:** Brands making environmental claims that are not substantiated by supporting information or a third-party certification that can be considered as a reliable source.

**Example:** The “**Conscious Choice**” by the brand H&M has been criticized heavily. Regulators found that the ‘environmental’ data shown to the consumers was misleading and lacked proof about how much water or energy was really saved.

3. **Sin of vagueness:** Brands marketing claims that are poorly defined or so broad that the consumer is most likely to misinterpret the real meaning.

**Example:** Godrej promoted its soap as 100% biodegradable but investigations found the presence of synthetic elements and lacked clarity on what made them truly natural. Advertising Standards Council of India (ASCI) ruled that the claims are misleading.

4. **Sin of worshipping false labels:** Brands creating the impression of endorsement by third party which is actually absent.

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<sup>4</sup><https://www.greenbusinessbenchmark.com/archive/7-sins-of-greenwashing> (last visited Jan. 25, 2026)

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**Example:** Consumer groups in EU challenged the carbon neutral claims of Apple claiming that the data did not show any aspect of actual emission reductions.

5. **Sin of irrelevance:** Brands claiming a generally truthful but unimportant environmental claim that distracts the consumers from other salient features of the product.

**Example:** A primary example of this sin can be seen as brands claiming CFC free labels while true CFC's have been legally banned for decades.

6. **Sin of lesser of two evils:** Brands promoting a product as being environment friendly generally comparing it to another worse alternative.

**Example:** A primary example of this can be seen in the form of E-Cigarettes or herbal cigarettes that claim to be nicotine free.

7. **Sin of fibbing:** Brands making claims that are outright false.

**Example:** One of the landmark examples of this is the 'Dieselgate' of Volkswagen who marketed their cars have low emission but in reality, they installed "defeat devices" that cheated emission tests. In reality the cars emitted 40 times more than the permissible limit.

Regulatory authorities are increasing their checking standards which makes it mandatory for the organization to make a comprehensive disclosure regarding their product which requires the brands to consider a multi-impact analysis by utilizing approaches and methodologies like the Life Cycle Assessment (LCA). In the present market consumers do not entertain selective truthfulness by brands but appreciate a comprehensive disclosure of all the environment impacts.

### 3. Global regulatory frameworks

The legal risks associated with the aspect of greenwashing is codified through consumer protection laws, intellectual property rights and new mandatory disclosures. Below are the various regulatory measures in effect to counter greenwashing:

1. **Intellectual Property Constraints:** Intellectual Property Law especially trademark registration functions as a primary filter against deceptive claims. The Trademarks Act expressly prohibits the use of false description which can mislead the public as to the character, quality, quantity, composition, geographical origin or mode of manufacture of goods or services. As a result, the use of "green" brand in association with these

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products or services that do not meet the required standards is more likely to violate Trademark Act.

Trademark Opposition and Cancellation provide a valuable administrative mechanism for third parties including competitors and activists to challenge the marks perceived as deceptive. This has proven to be cost effective measure to avoid court litigation by blocking the trademark registration of the goods or services that falsely represent environmental qualities. This framework compels companies and brands to substantiate environmental claims in the early brand development process. Acting as an effective barrier against embedded deception. If the claims made by the brands cannot be proven it becomes a case of greenwashing and in such a case the registration of the trademark can be blocked or cancelled.

**Limitations Related to IP:** Though IP law proves to be a primary gatekeeper of recognizing greenwashing tendencies there are certain limitations such as

- **Reactive nature of IP law:** Intellectual Property law assesses deceptiveness mainly while checking for distinctiveness of an applied trademark. There are no environmental standards to consider when granting trademark registration. Greenwashed claims are challenged mainly after the trademark has been granted making it a reactive law that requires third party quality checks.
  - **Overlap with other laws:** Greenwashing is generally treated as a consumer protection issue combined with advertising rather than a pure intellectual property concern. While trademarks and certification marks can be considered as a regulative tool. Enforcement of laws is generally dependent on other legal aspects.
  - **International inconsistency:** Strictness in regards of Intellectual Property Law is not uniform among countries. This results in inconsistent treatment of environmental claims. A mark refused in one country due to greenwashing concerns may be granted registration in another country.
2. **The U.S. F.T.C Green Guides**<sup>5</sup>: The United States Federal Trade Commission Green Guides provides essential guidelines for marketers to ensure that the environmental claims are truthful and non-deceptive. These guidelines establish general principles applicable to all environmental marketing claims giving a detail as to how the brands

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<sup>5</sup>*Environmentally Friendly Products: FTC's Green Guides*, FED. TRADE COMM'N (Jan. 16, 2024), <https://www.ftc.gov/news-events/topics/truth-advertising/green-guides>.

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must substantiate those claims in order to avoid deception. One of the recent updates in these guidelines focuses on use of product certifications and seals of approval and claims related to materials and energy sources that are 'renewable' and most importantly carbon effect claims.

3. **European Regulatory measures of GCD and CSRD:**The European Union had adopted measures like the Green Claims Directive and The Corporate Sustainability Reporting Directive to combat greenwashing and cross check unverified claims.

- **Green Claims Directive<sup>6</sup>:** This directive was adopted in the year 2023 which aims to protect consumers from greenwashing. The key measures include:
  - **Scientific substantiation:** Companies must prove their claims using science based verifiable measures based on ISO standards.
  - **Independent verification:** Mandatory checking of claims by independent verifier prior to market use.
  - **Comparative proof:** Brands claiming environmental superiority must prove that their product performs better than the existing market standards.
- **Corporate Sustainability Reporting Directive:** Complementary to the GCD the CSRD establishes mandatory data foundations for green claims.
  - **Scope:** The CSRD significantly expands reporting from approximately 50,000 companies globally including non-EU firms that operate in the EU.
  - **Mandatory assurance:** The reporting directive requires mandatory third-party assurances to be obtained by the companies.

These two directives work hand in hand where the CSRD provides the verifiable audited data and the GCD governs the marketing application of that data establishing a link between audited reports and public claims. This high degree of linkage between advertised and actual claims makes it extremely difficult for the companies to bypass the authenticity of its product without facing severe regulatory concerns.

4. **Guidelines for prevention and regulation of Greenwashing (India)<sup>7</sup>:** In the year 2024 the **Central Consumer Protection Authority** of India issued Guidelines for

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<sup>6</sup>*Green Claims Directive: Update November 2025*, CLIMATEPARTNER (Nov. 2025), <https://www.climatepartner.com/en/knowledge/glossary/green-claims-directive>.

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prevention and regulation of Greenwashing or misleading environmental claims. These guidelines seek to foster truthful practices where environmental claims are both truthful and meaningful, thus enhancing consumer trust and encouraging sustainable business practices.

- **Key features of the guidelines:**

- **Clear definitions:** These guidelines provide clear definition of the terms related to greenwashing and environmental claims ensuring that both business and consumers have a common understanding.
- **Transparency requirements:** Manufacturers and Service Providers are required to substantiate their environmental claims with credible science backed evidence. This shall include detailed methodology and data used to support these claims.
- **Prohibition of misleading terms:** The use of vague terms like green, eco-friendly and sustainable without proper proof is prohibited.
- **Third Party Certifications:** Environmental claims must be substantiated with third party certifications.
- **Adequate disclosures:** It is mandatory for the companies to provide adequate disclosures of material information. Claims must specify the marketed aspect and shall be supported by credible certification and reliable scientific evidence.

#### 4. **Consequences of Greenwashing**

The long-term effect of greenwashing extends beyond legal penalties fundamentally eroding the markets capacity for sustainable commerce by destroying trust and fostering widespread consumer skepticism<sup>8</sup>.

When consumers detect greenwashing it generates a massive negative reaction among the consumers. It leads directly to skepticism and distrust and doubt towards sustainability claims of all green products across the market place.

This generalized distrust among the consumers creates an overall negative impact. A deceptive act by a single company generates a sense of confusion among the consumers and gives rise to doubt that can paralyze genuine efforts by other brands and companies towards

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<sup>7</sup> The Trade Marks Act, 1999, § 9, No. 47, Acts of Parliament, 1999 (India).

<sup>8</sup> *Is Greenwashing Impacting on Green Brand Trust and Purchase Intentions*, supra note 4.

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environmentally conscious choices. This distrust among the consumers in the market leads to consumer inaction. When the trust of the consumers is weak it promotes a feeling of doubt towards all sustainability efforts creating a social barrier to meaningful change and slows down the adoption of such products by the consumers at a great level. This skepticism among the consumers generally effects the conscious efforts of genuine brands towards eco-friendly and environmentally sustainable products validating the need of strong regulatory measures like the GCD<sup>9</sup> or the CSRD.

When the consumers come to know about the greenwashing tendencies of a brand they generally perceive this behavior as intentional dishonesty and manipulation consequently weakening the trust and giving rise to a sense of betrayal which is harmful for the brand loyalty of that company.

**Damage to Brand loyalty and reputation:** Brand loyalty plays a very important role in the success of a company and its products or services. This brand loyalty is primarily built on consumer trust and the authenticity portrayed by the company. Engaging in green washing tendencies directly destroys this foundation of trust and authenticity. Consumers who feel betrayed quickly switch to the products of competitors available in the same market segment.

Moreover, the damage extends beyond consumer relationships. It puts in danger the broader stakeholder trust, also affecting employees, investors and business partners. Investors who are aware of such greenwashing risks are better able to avoid guilty companies as they pose a direct investment risk. The long-term damage far outweighs the immediate benefits and profits earned by the company.

## **5. Measures to verify authentic claims**

**1. ISO standards for credibility:** The International Organization for Standardization is a very useful tool to add credibility to the claims made by a product. The ISO provides certification which act as a verifiable measure to cross check the claims made by any company. The three types of ISO certification widely used to verify the environmental claims are:

- **Type I claims:** These types of claims fall under ISO 14024 certification which refer to third party certifications which is generally provided by independent

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<sup>9</sup>What the Green Claims Directive Means for Companies – An Overview, KPMG LAW (2025), <https://kpmg-law.de/en/what-the-green-claims-directive-means-for-companies-an-overview/>.

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bodies based on certain quality checks prevalent in that particular product market. These types of claims are generally considered to be of high credibility.

- **Type II claims:** These types of claims fall under ISO 14021 certification. These claims are generally self-declared by the organization itself and requires verifiable evidence. These types of claims are considered to possess the highest risk of greenwashing.
- **Type III claims:** These types of claims fall under ISO 14025 certifications and are treated as **Environmental Product Declaration** or EPD. Declaring a product as an EDP requires the product to be verified by a third party just like in Type I claims but rather than giving it a one-time certification the verification shall provide a report on the product's environmental impact across its entire life cycle from raw materials to disposal. These claims are cross checked by using data from **Life Cycle Assessment (LCA)**. EDP's provide transparency and adequate scientific evidence required by global regulators.

Global regulatory bodies are increasingly considering products with Type III data certifications. The European Union GCD relies heavily on "Product Environmental Footprint" methodologies according to ISO standards. This framework demonstrates that comprehensive environmental data is a mandatory requirement rather than a voluntary practice.

2. **Verifying ESG metrics<sup>10</sup>:** For credible green branding it has to provide data that can be verified. Verifiable ESG metrics provide clearly defined calculation methodologies and data sources subject external assurance ensuring accuracy and reliability.
3. **Data Traceability:** Marketing of green claims when included in sustainability reports must strike a balance between such advertised claims and actual performance that can be verified. In cases of absence of verifiable data, the claims automatically fall under the "Sin of no proof".

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<sup>10</sup> Guides for the Use of Environmental Marketing Claims, 16 C.F.R. § 260.1 et seq. (2012).

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## 6. Conclusion

Greenwashing poses a significant threat to consumer trust, brand loyalty, market fairness and environmental progress. With the rise in environmental messaging by corporates and rising demand of green products the risk of misleading claims grow significantly. In this scenario Intellectual Property Law can serve as a primary regulatory measure to reduce greenwashing tendencies particularly through trademarks, certification marks and existing regulatory measures like the GCD and CSRD. The reactive nature of IP laws and overlapping with consumer protection laws limit its effectiveness.

In order to combat greenwashing a strong policy framework is required that combines IP law with consumer protection laws and environmental laws and mandatory verifications through market transparency mechanisms in order to reward genuine sustainability efforts while shielding consumers from deceptive techniques.

## 7. Recommendations

1. **Regulatory mapping of claims:** Conducting a regulatory mapping of the advertised claims as opposed to actual performance or environmental impact of a product as per the FTC Green Guides and GCD of the European Union may reduce the tendency of companies to greenwash their products.
2. **Tracking ESG data:** Establishing an internal protocol to track ESG data especially the type of data that is required by mandatory directives like the CSRD will help in gaining verifiable data to cross check claims made by the companies. Verification of collected data can be done by investing in digital tools in order to gain a complete database ranging from raw materials, supply chain and final product.
3. **De-prioritizing of Type II claims:** De-prioritizing self-declared claims due to high risk of being greenwashed. Internal regulations maintained by the companies make it hard for other regulatory authorities to cross check such claims. Prioritizing Type I and Type III claims which are verified by third party provide external credibility necessary to meet regulatory demands and overcome any existing doubts of the consumers.
4. **Clearer guidelines for environmental claims:** Intellectual Property Offices shall give more robust and clear guidelines on environmental claims promoting the idea of explicit examination of such claims by making a structured criteria for evaluating

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sustainability related marks. Making clear directive and sustainability standards can improve decision making.

- 5. Strong enforcement mechanisms:** Government and IP offices may collaborate with consumer protection agencies and other regulatory bodies to verify the claims proactively. Administrative penalties and strong cancellation policies could prove to be an effective measure against greenwashing by companies. These enforcement mechanisms may extend to trade dress of a product. This will increase the scope of trademark law in tracking deceptiveness by analyzing color schemes and eco symbols.
- 6. Digital tools for transparency:** Introduction of AI in order to verify sustainability claims by the companies can support IP law enforcement. IP systems could be integrated with digital certification databases in order to cross reference claims. This will strengthen detection of greenwashed products at an early screening level.
- 7. Promoting time limited protection for environmental claims:** Granting one time verification to companies making environmental claims may result in violation of these claims in the future. To prevent this from happening IP offices could introduce sunset clauses that require the company regain the validity of their claims. This will encourage continuous improvement rather than one time compliance by the companies.
- 8. Creating a uniform public database:** IP offices can create a database accessible by the common public. The database shall contain registered trademarks which made environmental claims and certifications attained by them. This will improve consumer access and help regulatory bodies to track misleading claims.