

October 2024

Central Consumer Protection Authority issues guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims, 2024

The Central Consumer Protection Authority (“CCPA”) has notified the Prevention and Regulation of Greenwashing or Misleading Environmental Claims, 2024 (“**Guidelines**”) on October 15, 2024, in furtherance to the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022. The Guidelines were framed after seeking comments from public on the earlier released draft Guidelines and seeks to prevent companies from making false or misleading claims about the environment-friendly nature of their products and services.

Concept of environmental claims and greenwashing

The Guidelines define ‘environmental claims’ to include any representation, in any form, suggesting environmentally friendly attributes aimed to convey a sense of environmental responsibility or eco-friendliness of goods (either in its entirety or as a component), the manufacturing process, packaging, the manner of use of the goods or its disposal or any service (or any portion thereof) or the process involved in providing the services. These claims may include, but are not limited to:

1. having a neutral or positive impact on the environment or contributing to sustainability;
2. causing less harm to the environment compared to an earlier version of the same product or service;
3. causing less harm to the environment than competing goods or services; and
4. being more beneficial to the environment or possessing specific environmental advantages.

The Guidelines also highlight that any aspirational or futuristic environmental claims may be made only when clear and actionable plans on how such objectives are sought to be achieved are developed.

‘Greenwashing’ means any deceptive or misleading practice, which includes concealing, omitting or hiding relevant information, by exaggerating, making vague, false, or unsubstantiated environmental claims or the use of misleading words, symbols, or imagery, placing emphasis on positive environmental aspects while downplaying or concealing harmful attributes. However, it excludes (a) use of obvious hyperboles, puffery; or (b) the use of generic colour schemes or pictures; either not amounting to any deceptive or misleading practice; or (c) a company mission statement that is not specific to any product or service.

The Guidelines provide an illustration of what constitutes greenwashing and environmental claims:

A Company’s mission statement that ‘its growth will be based on sustainability principles’ will not be treated as an environmental claim. However, if the Company further adds to the above-stated statement ‘and all its products are manufactured in sustainable manner’, then such an environmental claim will be examined for greenwashing.

Applicability

The Guidelines are applicable to:

1. all environmental claims;
2. any manufacturer, service provider or trader whose goods/product/service is the subject of an advertisement; and
3. any advertising agency or endorser whose service is availed for the advertisement of such goods, product or service.

If any environmental claims are already regulated under any specific law, the Guidelines may be read as supplementary provision and not in derogation of such specific laws and where provisions of such other specific laws are in conflict with these Guidelines, then such specific law will prevail.

Substantiation of environmental claims

1. All advertisements making environmental claims must not use generic terms like 'clean', 'green', 'eco-friendly', 'eco-consciousness', 'good for the planet', 'minimal impact', 'cruelty-free', 'carbon-neutral', 'natural', 'organic', 'pure', 'sustainable', regenerative or other similar claims without adequate, accurate and accessible qualifiers and substantiation and adequate disclosures.
2. Advertisements must use consumer- friendly language and explain the meaning or implications when using technical terms like 'environmental impact assessment', 'greenhouse gas emissions' and 'ecological footprint'.
3. All environmental claims should be supported by evidence which is easily accessible and verifiable and based on independent studies or third party certifications.

What constitutes adequate disclosures?

1. Any disclosures made in relation to environmental claims must be easily accessible to the consumers and should not contradict the relevant environmental claim.
2. Any person making an environmental claim by way of an advertisement or communication should disclose all detailed material information by inserting a QR code or URL (or such other technology or digital medium) in such advertisements or communications.
3. While making disclosures in relation to environmental claims using data from research, both favourable and unfavourable observations should be highlighted.
4. The relevant advertisement or communication should specifically mention whether it refers to the goods (as a whole or part thereof), manufacturing process, packaging, manner of use of the goods or its disposal, or service (as a whole or part thereof) or the process of rendering the service.
5. Comparative environmental claims that compare 1 (one) product or service to another must be based on verifiable and relevant data and must disclose what specific aspects are being compared.
6. Disclosures regarding credible certification, reliable scientific evidence, internal verifiable evidence, certificates from statutory or independent third-party verification must be supported for specific environmental claims such as 'compostable', 'degradable', 'free-of', 'non-toxic', '100% natural', 'recyclable', 'refillable', 'renewable', 'plastic-free', 'plastic- positive', 'climate-positive', 'net-zero' and other similar claims.

Guidance for making environmental claims

CCPA has also issued a guidance note to further detail the nature of claims that will be subject to scrutiny under the Guidelines.

Parameters	Explanation	Illustration
Truthfulness and accuracy	Environmental claims must be truthful, accurate and based on verifiable information, i.e., certificates by statutory/credible authorities or internal verifiable evidence.	Presenting a claim unaccompanied by requisite evidence or certification such as, 'Our packaging is made from 100% recycled materials' or 'Energy-efficient technology for a greener tomorrow'
Clarity and unambiguity	Environmental claims must not use generic or technical terms without supporting studies or certifications.	Presenting a claim without adequate qualifiers/substantiation such as, 'Go green with our product' or 'Harnessing the power of sustainable technology' or 'Made with minimal impact on the environment'
Fair and meaningful comparisons	Comparative environmental claims must be verifiable and based on relevant data.	Presenting a vague claim which misleads consumers by implying lack of safety of competitive products such as, 'Chemical-free cleaning for a safer environment' or 'Our product is greener than the competition'
Absolute and relevant claims	If an environmental claim pertains to a specific feature, part or stage then the fact that such environmental claim relates only to such relevant feature, part or stage should be fully disclosed.	Advertising a bottle of hand-wash as 'biodegradable' without clarifying that only the hand-wash, and not the bottle, is biodegradable.
Imagery sans substantive claims	Any form of visual environmental claim attempting to manipulate the consumer into believing that a product or service is environmentally responsible or eco-friendly, without providing relevant details or context.	A detergent advertisement showcasing a family in an open grass ground, with the tagline, 'Gentle on Clothes, Gentle on Nature' without necessary disclosures implies a connection between the product and an eco-conscious lifestyle.
Endorsements	Environmental claims suggesting endorsements/certifications that are (a) non-existent, (b) intentionally misleading, or (c) lack recognition from credible authorities	Labelling a product as 'certified organic' or 'recommended by leading environmental experts' or falsely implying that such product meets certain quality standards.

Conclusion

There has been an increasing trend of inaccurate and misleading claims being made while marketing products, creating an illusion of environmental responsibility, in order to capitalise on consumers' growing environmental sensitivity. The Guidelines push for provision of correct information thereby enabling consumers to make informed choices. The Guidelines pose a significant step towards promoting transparency and accountability in environmental claims made in advertising, catering to the rising consumer interest in environmentally positive goods and services thus enhancing consumer trust.

Environment

The Firm advises and acts in proceedings, arising in relation to various environmental statutes, before the National Green Tribunal, High Court/s and Supreme Court of India. We have done critical review of major environmental laws and an assessment of their assigned objectives. The firm has been regularly advising clients in matters relating to climate change and energy transition.

This Prism has been prepared by:



Bhavya Sriram
Partner



Nandini Menon V
Associate



Pratiksha Easwar
Associate



18 Practices and
25 Ranked Lawyers

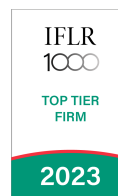


7 Ranked Practices,
16 Ranked Lawyers

Elite – Band 1 -
Corporate/ M&A Practice

3 Band 1 Practices

4 Band 1 Lawyers, 1 Eminent
Practitioner



12 Practices and
42 Ranked Partners
**IFLR1000 APAC
Rankings 2023**

Banking & Finance Team
of the Year

Fintech Team of the Year

Restructuring & Insolvency
Team of the Year



14 Practices and
38 Ranked Lawyers



20 Practices and
22 Ranked Lawyers



Ranked Among Top 5 Law Firms in
India for ESG Practice



Recognised in World's 100 best
competition practices of 2024



Among Top 7 Best Overall
Law Firms in India and
11 Ranked Practices

11 winning Deals in
IBLJ Deals of the Year

12 A List Lawyers in
IBLJ Top 100 Lawyer List

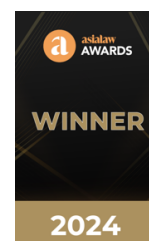


Asia M&A Ranking 2024 – Tier 1

Employer of Choice 2024

Energy and Resources Law Firm of
the Year 2024

Litigation Law Firm of the Year
2024



Energy - Law Firm of
the Year (APAC)



7 Practices and
3 Ranked Lawyers

For more details, please contact km@jsalaw.com

www.jsalaw.com



Ahmedabad | Bengaluru | Chennai | Gurugram | Hyderabad | Mumbai | New Delhi



This prism is not an advertisement or any form of solicitation and should not be construed as such. This prism has been prepared for general information purposes only. Nothing in this prism constitutes professional advice or a legal opinion. You should obtain appropriate professional advice before making any business, legal or other decisions. JSA and the authors of this prism disclaim all and any liability to any person who takes any decision based on this publication.