

Draft guidelines for prevention and regulation of greenwashing

The Central Consumer Protection Authority (“CCPA”), *vide* a notification dated February 20, 2024 has issued the ‘Draft Guidelines for Prevention and Regulation of Greenwashing’ (“**Draft Guidelines**”) for seeking views/comments/suggestions from the public. These Draft Guidelines, proposed under the Consumer Protection Act, 2019, aim to address deceptive environmental claims, commonly known as “greenwashing”, in advertisements. The key highlights of the Draft Guidelines are outlined below:

1. The Draft Guidelines apply to (a) all advertisements irrespective to their form, format or medium; (b) a service provider, product seller, advertiser or an advertising agency or endorser who is providing service for the advertisement of such goods or services. However, the Draft Guidelines are not applicable to advertisements or communication not particularly related to any product or services unless such advertisement or communication is directly or indirectly related to any product or service.
2. The Draft Guidelines clarify essential terms such as “environmental claims”, and “greenwashing”. The term “greenwashing” is defined as “any deceptive or misleading practice, which includes concealing, omitting, or hiding relevant information, by exaggerating, making vague, false, or unsubstantiated environmental claims and use of misleading words, symbols, or imagery, placing emphasis on positive environmental aspects while downplaying or concealing harmful attributes”.
3. The Draft Guidelines specify that generic claims such as “environmentally friendly”, “green” or “clean” ‘cruelty-free’, ‘carbon – neutral’ and similar assertions cannot be made without adequate qualifiers and substantiation and adequate disclosure. Advertisers are required to provide accurate disclosures of material information regarding environmental claims, either in the advertisement or through accessible digital mediums like QR codes or URLs. comparative claims and specific environmental claims, like carbon offsets, carbon neutral, ozone-friendly etc. are required to be verifiable, through credible certification, reliable scientific evidence or independent third-party verification. It further stipulates that futuristic and aspirational are permitted only when accompanied by clear, actionable plans for achievement.
4. To address greenwashing practices, the Draft Guidelines prohibits individuals or entities from making deceptive environmental claims. Additionally, all environmental claims require to be supported by evidence and presented in a manner understandable to consumers.
5. According to the Draft Guidelines, once in effect, they will apply to all advertisements across diverse platforms and to entities engaged in their creation or distribution. However, exemptions exist for general statements not directly associated with particular products or services, unless they tangentially allude to them.

6. The Draft Guidelines also stipulate that in case of contravention of the provisions contained therein, the penalty as provided in the Consumer Protection Act, 2019 will apply. This entails potential penalties including imprisonment for a term of up to six months, a fine of up to twenty lakh rupees, or both.
7. In essence, these Draft guidelines aim to uphold transparency and accuracy in environmental claims within advertisements, prioritizing consumer protection and preventing deceptive practices in the market. Additionally, the CCPA has issued a guidance note accompanying the Draft Guidelines, providing further insights into considerations to be observed while making environmental claims under these Draft Guidelines.

Conclusion

The introduction of the Draft Guidelines marks a significant stride towards promoting transparency and accountability in environmental advertising practices. By mandating accurate disclosures, substantiation of claims, and clear presentation of information, these guidelines aim to protect consumers from deceptive practices while fostering integrity in the market. Compliance with these Draft Guidelines not only mitigates regulatory risks but also enhances consumer trust and confidence in businesses' environmental assertions, ultimately contributing to a more responsible and sustainable advertising landscape.

Clean Energy & Climate Change Practice

We are known for our specialist domain-focused Energy practice - acknowledged for strengths in grappling with complex legal issues involving public policy, market economics, technology, finance, project management. Our practice has contributed to several landmark and precedent-setting work related to legislative and policy framework governing the industry, commercial strategies for regulated industry, presenting cases before various regulatory and judicial fora in the country, advice on tariff, licensing, market development and design, de-regulation and dispute resolution.

As part of our Energy practice, we are also involved in advising clients in the renewable energy and cleantech space. Our team's climate change and sustainability practise is regarded as a leading specialized practice acknowledged for its domain knowledge, multi-dimensional expertise and strengths in grappling with complex issues involving public policy, economics, technology, finance, project management besides law.

This Prism has been prepared by:




Vishnu Sudarsan
Partner



Sugandha Somani Gopal
Partner



Asmita Maan
Associate

		
<p>18 Practices and 25 Ranked Lawyers</p>	<p>13 Practices and 38 Ranked Lawyers</p>	<p>Recognised in World's 100 best competition practices of 2024</p>
		
<p>19 Practices and 19 Ranked Lawyers</p>	<p>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</p>	<p>Among Top 7 Best Overall Law Firms in India and 9 Ranked Practices ----- 11 winning Deals in IBLJ Deals of the Year ----- 12 A List Lawyers in IBLJ Top 100 Lawyer List</p>
		
<p>Innovative Technologies Law Firm of the Year 2023 ----- Banking & Financial Services Law Firm of the Year 2022 ----- Dispute Resolution Law Firm of the Year 2022 ----- Equity Market Deal of the Year (Premium) 2022 ----- Energy Law Firm of the Year 2021 ----- Employer of Choice 2021</p>	<p>7 Ranked Practices, 16 Ranked Lawyers ----- Elite – Band 1 - Corporate/ M&A Practice ----- 3 Band 1 Practices ----- 4 Band 1 Lawyers, 1 Eminent Practitioner</p>	<p>Ranked #1 The Vahura Best Law Firms to Work Report, 2022 ----- Top 10 Best Law Firms for Women in 2022</p>  <p>7 Practices and 2 Ranked Lawyers</p>

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.