



THE BUZZ

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Monthly Newsletter By Team Ayana Legal

Bluewashing

A form of Greenwashing, the concept of Bluewashing refers to when companies or businesses attempt to portray to consumers that they are more ethical and socially responsible than they actually are.

The colour blue refers to the United Nations flag in order to show attempts of corporates into misleading consumers into believing the extent of their alignment to the UN goals and themes.

The term emerged along with the creation of the The United Nations Global Compact which is a voluntary initiative to get corporations to implement basic responsibilities to people and planet.

GREENWASHING

With the general trend in consumers becoming more environmentally conscious, using words such as “green” and “eco” have become new marketing tools for businesses to promote themselves as a more environmentally friendly business whether this be true or not. Greenwashing refers to when companies market themselves by making false, misleading or unsubstantiated claims of being eco or environment friendly.

Sins of Greenwashing

TerraChoice Environmental Marketing Inc., a marketing agency in the US was the first to publish a report called “Six Sins of Greenwashing” highlighting various ‘sins’ that would constitute greenwashing.

- i) sin of the hidden trade off
- ii) sin of no proof of environmental claims
- iii) sin of vague environmental claims
- iv) sin of an irrelevant environmental claim
- v) The sin of the lesser of the two evils
- vi) the sin of fibbing

Recently, a seventh sin has been added:

- vii) sin of worshipping false labels

The Global Compact lays down 10 Principals for companies to follow.

The 10 Principals are derived from international conventions, namely:

- The Universal Declaration of Human Rights,
- The International Labour Organization's Declaration on Fundamental Principles and Rights at Work,
- The Rio Declaration on Environment and Development,
- The United Nations Convention Against Corruption.

Thank You

We at Ayana Legal thank you for your continued support and patronage to our newsletter and capsules. We look forward to being back with our next edition soon.

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This newsletter is solely for the purpose of providing information and the content provided is not and should not be construed as legal advice.

The sin of hidden trade-off is understood as where the environmentally harmful features of the product are hidden and only the eco-friendly aspects are promoted in attempts to solve an environmental issue. Regarding the sin of irrelevance, an example often cited is promoting products as "CFC free" though CFCs are banned in many countries. The sin of the lesser of the two evils refers to when the claim of a product being 'green' maybe true but the very nature of the product is such that it is harmful to the environment e.g. green herbicides. The sin of fibbing is making a completely false claim. The sin of false labels refers to false certifications intended to mislead consumers.

Greenwashing Regulation

India has no specific regulation or legislation that addresses greenwashing. In the US, the Federal Trade Commission (FTC) has issued Guides for the Use of Environmental Marketing Claims to determine whether 'green' products are being falsely advertised. It has been clarified that - "*It is deceptive to misrepresent, directly or by implication, that a product, package or service offers a general environmental benefit.*" The Guides state that an environmental marketing claim should not overstate, directly or by implication, an environmental attribute or benefit. Marketers should not state or imply environmental benefits if the benefits are negligible. Further that marketers should use clear and prominent qualifying language that limits the claim to a specific benefit or benefits.

The Federal Trade Commission Act allows the FTC under Section 5 to bring claims against companies/businesses for unfair or deceptive acts or practices in commerce.

Greenwashing claims may also be prosecuted under the Lanham Act, Section 43(a) which imposes civil liability for advertising or promoting false or misleading description which misrepresents the nature, characteristics, qualities of goods, services, or commercial activities.