



Digital Deception Or Eco-Branding? Navigating The Intermediary Liability Paradox And Greenwashing In India's E-Commerce Ecosystem

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Abstract: The rapid expansion of e-commerce in India has seen a parallel rise in 'greenwashing', the practice of making misleading or unsubstantiated environmental claims. While the Central Consumer Protection Authority (CCPA) notified the Guidelines for Prevention and Regulation of Greenwashing in 2024, this paper argues that the current legal framework remains ill-equipped to handle the nuances of digital deception. This paper identifies three critical legal gaps: (1) the inadequacy of the 'reasonable consumer' standard in the face of algorithmic targeting and cognitive vulnerability; (2) the 'Intermediary Liability Paradox' where compliance with greenwashing guidelines traps platforms into potentially forfeiting their 'Safe Harbor' immunity under Section 79 of the IT Act; and (3) the evidentiary burden created by the ephemeral nature of digital 'dark patterns.' By synthesizing Indian consumer law, IT law, and comparative international standards like the EU Digital Services Act, this paper proposes specific reforms, including a reverse burden of proof under the Indian Evidence Act, the creation of a 'Safe Compliance Lane' for intermediaries, and the mandatory establishment of digital ad repositories to ensure transparency and accountability in India's green digital marketplace.

Keywords: Greenwashing, E-Commerce, Intermediary Liability, Dark Patterns, CCPA Guidelines 2024.

1. Introduction

The rapid expansion of e-commerce in India has fundamentally altered the landscape of branding, advertising, and consumer engagement. Digital platforms enable firms to reach consumers at unprecedented scale and speed, but they have also intensified the risk of deceptive practices. Among these, greenwashing, the practice of misleading consumers through false, exaggerated, or unverifiable environmental claims, has emerged as a significant concern in digital commerce. In the Indian context, where sustainability narratives increasingly shape consumer preferences and corporate branding, greenwashing represents a critical intersection of environmental claims, consumer protection, and digital deception.

Indian consumers are now routinely exposed to sustainability-related claims such as “eco-friendly,” “carbon neutral,” or “environmentally responsible” in online marketplaces, social media advertising, and influencer-driven promotions. Empirical studies indicate that a substantial proportion of large Indian corporations engage in superficial or selective environmental disclosures, often without independent verification, thereby distorting consumer choice and undermining genuine sustainability efforts.¹ The digital environment further amplifies this risk by enabling algorithm-driven advertising, dark patterns, and opaque design choices that obscure material information and manipulate consumer decision-making.² As a result, greenwashing in e-commerce is not merely a marketing ethics issue but a form of digital deception with tangible legal and consumer welfare implications.

India’s legal response to this phenomenon has, until recently, been fragmented. There is no single statute that explicitly defines or penalizes greenwashing. Instead, regulatory control has been exercised indirectly through a patchwork of laws and guidelines, including the Consumer Protection Act, 2019, the Consumer Protection (E-Commerce) Rules, 2020, self-regulatory advertising codes, securities law-based ESG disclosures, and sector-specific environmental regulations.³ Scholars have consistently noted that this diffusion of authority creates enforcement gaps, allowing misleading environmental claims to persist with limited accountability.⁴ The absence of clear standards for substantiation, verification, and disclosure has historically enabled corporations to exploit ambiguity in sustainability terminology.

In response to growing concern, Indian regulators have taken decisive steps. On October 15, 2024, the Central Consumer Protection Authority (CCPA) formally notified the Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims, 2024.⁵ These binding rules represent a paradigm shift, mandating that all environmental claims be backed by verifiable evidence and prohibiting the use of generic terms like “clean” or “eco-friendly” without specific qualifiers. While these guidelines provide a necessary legal definition, early implementation suggests that traditional enforcement mechanisms struggle to keep pace with the algorithmic speed of digital marketplaces.⁶

This paper critically examines the intersection of greenwashing and digital deception in Indian e-commerce branding. It situates greenwashing within broader debates on misleading advertising, dark patterns, and ESG disclosures, and evaluates whether existing legal frameworks are adequate to protect consumers in the digital marketplace. This paper goes beyond simply listing regulations to explain why they fail to stop online deception. It argues that current laws, which are built for a world of printed ads and standard shoppers, cannot handle the reality of modern apps. Specifically, these laws fail to address three key digital problems: how algorithms target specific vulnerabilities, how platforms hide behind “neutrality” laws while actively promoting fake green products, and how digital evidence often disappears before it can be collected. By analyzing these gaps, the paper exposes why “transparency” is often an illusion in Indian e-commerce and proposes practical ways to hold platforms accountable.

2. Conceptual and Theoretical Framework: Greenwashing and Digital Deception

Greenwashing emerges from a fundamental mismatch between corporate environmental rhetoric and substantive environmental performance. Delmas and Burbano conceptualize greenwashing as “the dissemination of disinformation by an organization so as to present an environmentally responsible public image,”⁷ driven by competing institutional, market, and firm-level incentives that reward appearance over authenticity. Lyon and Montgomery further clarify that greenwashing encompasses both the means, deceptive communication strategies, and the ends, wherein corporations spend disproportionate resources marketing environmental commitments rather than implementing genuine sustainability measures.⁸ The seminal TerraChoice framework identifies seven persistent typologies of greenwashing: hidden trade-offs (emphasizing environmental attributes while concealing broader impacts), unsubstantiated claims lacking credible proof, vague language such as “eco-friendly” or “natural,” irrelevant claims, lesser-of-evils positioning, fraudulent certifications, and misleading visual imagery and symbolism.⁹ An integrated framework developed by contemporary scholars extends these typologies to encompass selective disclosure, future-oriented claims, and

comparative assertions, providing a more comprehensive lens through which to assess the legitimacy of environmental claims across diverse product categories and sectors.¹⁰

The translation of greenwashing from traditional marketing to digital commerce introduces distinctive deceptive mechanisms that amplify consumer vulnerability. E-commerce platforms facilitate targeted advertising algorithmic targeting based on consumer profiles, enabling firms to direct misleading environmental claims toward consumers most susceptible to such messaging. Moreover, digital interfaces employ “dark patterns,” which are now formally recognized and prohibited under the CCPA’s Guidelines for Prevention and Regulation of Dark Patterns, 2023. In the specific context of greenwashing, these manifest as “**False Urgency**” (e.g., “Only 2 Eco-friendly units left at this price!”) and “**Basket Sneaking**” (automatically adding ‘carbon offset’ donations to the cart without consent).¹¹ Other common tactics include “**Green Crowding**” (hiding in a group or initiative to avoid individual scrutiny) and “**Greenhushing**” (under-reporting sustainability data to evade scrutiny).¹² The opacity of platform ecosystems, where multiple sellers operate under unified storefronts with inconsistent information verification, creates accountability vacuums wherein platforms become complicit in propagating deceptive environmental claims without rigorous substantiation mechanisms.

Empirical evidence reveals that consumers systematically struggle to distinguish authentic environmental claims from deceptive ones, rendering them vulnerable to manipulation. Studies demonstrate that exposure to greenwashing triggers significant negative emotional outcomes, anger, betrayal, and erosion of trust, particularly when consumers become aware of deception post-purchase.¹³ This awareness paradoxically reduces willingness to pay premiums for subsequent green products, undermining market incentives for genuine corporate environmental responsibility. Consumer perception of greenwashing negatively influences green purchasing intention through mediated pathways of perceived betrayal and emotional distrust, suggesting that deceptive environmental claims do not merely deceive in isolated transactions but systematically destabilize consumer confidence in the green product market generally.¹⁴ Digital deception through dark patterns and manipulative interface design compounds this effect, with experimental evidence showing that dark patterns increase purchase impulsivity and decrease post-decision satisfaction compared to transparent purchasing environments.¹⁵

These mechanisms of greenwashing and digital deception constitute violations of consumer protection principles encoded within Indian statutory law. Misleading environmental claims constitute “misleading advertisements” under the Consumer Protection Act, 2019, wherein representations about product characteristics diverge from actual product attributes; deceptive environmental assertions simultaneously constitute “unfair trade practices” insofar as they exploit consumer information asymmetry and psychological vulnerabilities.¹⁶ The systematic deployment of dark patterns in presenting environmental claims may further constitute defects in service provision by e-commerce platforms, which bear obligations to ensure accurate and non-deceptive product information. Understanding greenwashing and digital deception through this conceptual framework thus establishes the foundation for analyzing how Indian consumer protection law addresses these phenomena and where doctrinal and institutional gaps necessitate reform.

3. Indian Market Context: Green Consumers and E-Commerce Expansion

India's consumer landscape exhibits a pronounced and growing segment of environmentally conscious buyers whose purchasing decisions increasingly reflect pro-environmental concerns and sustainability values. Empirical research demonstrates that Indian consumers display significant environmental concern that meaningfully influences green purchasing behavior, with studies revealing that consumers exposed to environmental information exhibit heightened willingness to purchase eco-friendly products and, in some instances, to pay premium prices for perceived environmental authenticity.¹⁷ Among younger and educated demographics, particularly millennials in urban centers, environmental consciousness correlates with preference for organic, sustainable, and green-certified products across multiple sectors including FMCG, cosmetics, and wellness.¹⁸ This pro-environmental orientation creates powerful market incentives for firms to market their products as environmentally responsible, fostering an environment wherein greenwashing flourishes, as companies compete to capture environmentally conscious consumers' willingness to pay premiums by adopting environmental rhetoric without necessarily implementing substantive sustainability measures.¹⁹ Concurrently, India's e-commerce sector has undergone transformative expansion, with the digital retail market projected to

reach USD 300 billion by 2030, driven by over 900 million internet users and 650 million smartphone users, affordable digital infrastructure, and platforms such as Amazon India, Flipkart, and emerging direct-to-consumer brands proliferating across urban and rural markets.²⁰ Within this expanding digital commerce ecosystem, environmental claims have become ubiquitous, appearing across product listings, digital advertisements, social media sponsored content, app-based interfaces, and online marketplace filters, often accompanied by green badges, sustainability certifications, and eco-label imagery lacking rigorous verification mechanisms.²¹ The convergence of rising environmental consciousness among Indian consumers and the exponential growth of digital commerce channels, coupled with the technical affordances of online platforms that facilitate rapid dissemination of visual and textual environmental claims, has created an acute and largely unregulated space wherein greenwashing proliferates at scale.

4. Indian Consumer Protection Framework Relevant to Digital Greenwashing

The Consumer Protection Act, 2019 represents a paradigmatic shift from its 1986 predecessor, specifically designed to address contemporary digital commerce challenges absent in traditional offline transactions. The 2019 Act explicitly defines "e-commerce" and "electronic commerce entity," recognizing digital platforms as distinct market structures requiring tailored protective mechanisms.²² Critically, the Act defines "misleading advertisement" under Section 2(28) as any advertisement that, directly or by implication, falsely represents facts concerning product characteristics, benefits, or environmental attributes, thereby establishing a textual basis for regulating greenwashing claims.²³ The definition of "unfair trade practice" under Section 2(47) encompasses deceptive representations, concealment of material facts, and exploitation of consumer vulnerability, all directly applicable to misleading environmental claims.²⁴ The Central Consumer Protection Authority, established under the 2019 Act, possesses broad suo motu powers to investigate and regulate misleading advertisements and unfair trade practices, including authority to issue directions restraining dissemination of deceptive environmental claims, impose penalties up to rupees fifty lakhs per violation, and mandate corrective advertising and product recalls.²⁵

The Consumer Protection (E-Commerce) Rules, 2020 impose explicit obligations on marketplace and inventory e-commerce entities to ensure accurate, non-misleading product information, exercise due diligence regarding seller representations, and maintain grievance redressal mechanisms for false environmental claims.²⁶ These rules establish platform accountability for content hosted within their interfaces, effectively extending consumer protection obligations to digital intermediaries. Complementing statutory frameworks, the Bureau of Indian Standards has established IS/ISO 14024:2018 standards for eco-labeling and environmental claims in advertising, while the Advertising Standards Council of India provides guidance on substantiability and explicitness requirements for environmental assertions.²⁷

Crucially, the Central Consumer Protection Authority (CCPA) recently released the Guidelines for Prevention and Regulation of Greenwashing, 2024. These guidelines attempt to mitigate industry-wide ambiguity by mandating that corporations substantiate environmental assertions, such as "organic," "carbon neutral," or "eco-friendly", with verifiable evidence. They further prohibit future-oriented claims lacking clear transition plans. However, we argue in this paper that even these new definitions overlook the technical mechanisms through which online platforms actually function.

Underlying these sectoral and self-regulatory instruments, India's constitutional jurisprudence frames consumer protection against greenwashing as integral to environmental justice; courts have repeatedly recognized environmental rights as encompassed within Article 21's "right to life," establishing PIL as an accessible remedy for systematic greenwashing that undermines collective environmental and consumer autonomy.

5. Why Current Laws Don't Work for Online Greenwashing?

While the CPA 2019 and the 2024 Guidelines provide critical definitions of greenwashing, they remain insufficient in curtailing the sophisticated deceptive mechanisms prevalent in digital ecosystems.²⁸ This section analyzes three structural legal failures that emerge when applying traditional consumer protection standards to the digital marketplace.

5.1. The “Reasonable Consumer” vs. Algorithmic Vulnerability: Indian consumer jurisprudence is historically anchored to the “reasonable consumer” standard, an idealized average individual who is diligent and sensible. This doctrine assumes a uniform advertising environment, such as a physical billboard or print media. However, algorithmic curation fundamentally shatters this uniformity. Online platforms leverage “persuasion profiles” to identify and exploit specific cognitive vulnerabilities.²⁹ By identifying users who exhibit high “eco-anxiety,” algorithms can deliver hyper-targeted green claims designed to bypass the critical faculties that a “reasonable” person might otherwise exercise.

When an AI-driven interface isolates a vulnerable consumer and feeds them a tailored environmental narrative, the traditional “average consumer” test becomes an obsolete heuristic. The platform is no longer addressing the public; it is manipulating individual bias. By judging these deceptive practices through the lens of a skeptical, generalized consumer, the law ignores a critical reality: the targeting itself constitutes a form of deception that renders the consumer specifically, rather than generally, vulnerable.

5.2. The Intermediary Liability Paradox: A fundamental conflict exists between the Guidelines for Prevention and Regulation of Greenwashing, 2024 and the Information Technology (IT) Act, 2000. The 2024 Guidelines impose a duty on “service providers” and “advertisers”, categories that encompass e-commerce platforms, to ensure that environmental claims are substantiated. This necessitates an active verification role for the platform. As a response, leading platforms have already moved toward compliance; for instance, Amazon India updated its seller compliance framework in late 2024, mandating the upload of credible certifications for claims like “carbon neutral” or “biodegradable.” Similarly, Flipkart has institutionalized its “Flipkart Green” storefront, originally launched in early 2023 and subsequently refined to meet evolving regulatory standards.³⁰ This proactive compliance creates a significant legal vulnerability under Section 79 of the IT Act. To maintain “Safe Harbor” immunity, Section 79(2)(c) requires that an intermediary must not “select or modify” the information contained in a transmission. By actively vetting green certificates or curating “Green” stores, platforms are arguably exercising “editorial control” or “selection.” Courts in *Christian Louboutin Sas v. Nakul Bajaj* (2018) have held that active “curation” or “promotion” of goods destroys Safe Harbor immunity. Thus, platforms are in a precarious position, operating in a “legal grey zone” where they must choose between CCPA compliance, which mandates active verification, and the preservation of IT Act safe harbor immunity. This regulatory limbo suggests that market leaders, by choosing to comply with consumer protection norms, may have already inadvertently jeopardized their status as passive intermediaries.³¹

5.3. The Case for Ad Repositories: The digital environment exacerbates the evidentiary challenges faced by consumers. Unlike a physical product label that can be preserved for litigation, digital deception through “dark patterns” is often ephemeral. Deceptive environmental claims, such as a “False Urgency” countdown timer linked to a “green deal,” may appear briefly for a specific user and then vanish, leaving no audit trail.

This creates a “Black Box” effect where the evidence of deception is exclusively held by the platform or advertiser. In the absence of a mandatory digital archive, similar to the Ad Repository requirements under the EU Digital Services Act (DSA), regular consumers are structurally barred from proving their case. Without a legal mechanism to force the “preservation” of digital interactions, the rights granted by the 2024 Guidelines remain largely unenforceable in practice.

5.4. Influencer Marketing and the ASCI: Digital greenwashing in India is increasingly decentralized through influencer marketing. The CCPA (India) Guidelines 2024, read with the ASCI Guidelines for Influencer Advertising, impose a positive duty on ‘endorsers’ to perform due diligence before making environmental claims. However, a jurisdictional gap remains: while influencers are liable for “misleading ads,” the platforms hosting these influencers often escape liability by claiming they are merely providing a “stage.” This

fragmentation allows “green-nannying”, the use of relatable influencers to push unsubstantiated claims, to bypass the rigorous checks applied to traditional corporate advertisements.³²

6. Comparative and International Perspectives on Digital Greenwashing

International regulatory frameworks establish instructive benchmarks for addressing digital greenwashing. The OECD's 2016 Consumer Protection in E-Commerce Guidelines, revised to address digital commerce challenges, emphasize transparency in online transactions, substantiation of product claims, and platform accountability for hosted content, principles directly applicable to environmental claims.³³ The European Union has pursued aggressive enforcement against misleading environmental claims, particularly regarding "climate-neutral" and "carbon-offset" assertions lacking scientific substantiation, while the EU Digital Services Act establishes baseline transparency obligations for online platforms regarding algorithmic content curation and advertising practices.³⁴ Australia's Australian Consumer and Competition Commission has initiated enforcement actions against major retailers for making unsubstantiated environmental claims on digital platforms, establishing precedent for holding marketplaces accountable for seller-generated misleading representations regarding product sustainability and eco-certification.³⁵ These jurisdictions collectively establish that effective anti-greenwashing frameworks require: (1) explicit statutory or regulatory definitions of substantiation thresholds for environmental claims; (2) affirmative platform obligations to monitor and remove unverified green claims; (3) enhanced disclosure mechanisms for environmental certifications and claims origins; and (4) meaningful enforcement mechanisms with sufficient penalties to deter systematic deception.

India's framework can integrate these comparative lessons through concrete reforms: statutory clarification of substantiation standards for environmental claims, particularly distinguishing between verifiable certifications (BIS, ISO standards) and vague or unproven assertions; mandatory platform responsibility provisions requiring e-commerce entities to implement verification systems before green badges or certifications appear in search results or product listings; algorithmic transparency requirements ensuring that environmental claims do not disproportionately influence consumer search results or recommendations without adequate substantiation disclosure; and enhanced CCPA enforcement capacity through specialized greenwashing units and technical expertise in evaluating environmental claims. Additionally, India should develop coordinated guidance between the CCPA, environmental regulators, and self-regulatory bodies (ASCI, BIS) to harmonize substantiation standards and prevent regulatory arbitrage wherein firms exploit gaps between consumer protection, environmental, and advertising frameworks.³⁶ Such comparative benchmarking positions India's anti-greenwashing regime as both protective of consumer autonomy and supportive of authentic environmental sustainability efforts within digital commerce ecosystems.

7. Conclusion and Recommendation

Digital greenwashing in e-commerce branding represents a significant and largely unregulated form of consumer and environmental harm in India, operating at the intersection of information asymmetry, market incentive distortion, and institutional capacity constraints. This paper has established that greenwashing encompasses both classical forms of deceptive environmental marketing and distinctly digital mechanisms, including dark patterns, algorithmic manipulation, influencer-driven claims, and in-platform certifications, that amplify consumer vulnerability in online marketplaces. India's Consumer Protection Act, 2019, while conceptually adequate in its definitions of misleading advertisements and unfair trade practices, falls substantially short in addressing the scale and sophistication of fragmented coordination with environmental, advertising, and standard-setting bodies.³⁷

Addressing these gaps requires multifaceted reform.

7.1. Reversing the Burden of Proof: Invoking the Evidence Act: The structural asymmetry between platforms and consumers necessitates a shift in the burden of proof. We propose that the CPA 2019 be amended to introduce a “Reverse Burden” for all environmental claims. Drawing on Section 106 of the Indian Evidence

Act, 1872, which places the burden on any person to prove a fact “especially within their knowledge”, the law must presume that a green claim is misleading unless the seller or platform can produce contemporaneous, third-party verification. If a corporation profits from a “sustainable” premium, the onus of proving that sustainability must lie solely on them.³⁸

7.2. Constructing a “Safe Compliance Lane” under Section 79: To resolve the Intermediary Liability Paradox, the Ministry of Electronics and Information Technology (MeitY) must issue a clarification or amendment to the IT Rules. A specific proviso should be added to Section 79 of the IT Act, stating that due diligence measures undertaken to comply with statutory consumer protection guidelines (including environmental verification) do not constitute “editorial control” or the “selection of the transmitter” under Section 79(2). This would establish a “Safe Compliance Lane,” encouraging platforms to proactively purge greenwashing without jeopardizing their broader safe harbor immunity.³⁹

7.3. Mandatory Transparency and the Digital India Act: India should adopt international best practices by mandating that e-commerce platforms maintain a publicly accessible Digital Ad Repository. Furthermore, the upcoming Digital India Act (DIA), intended to replace the aging IT Act, must explicitly categorize “Green Dark Patterns” as a prohibited algorithmic harm. The DIA should require platforms to archive every environmental claim and its target demographic for a minimum of one year, following the EU DSA model. This would eliminate the “Black Box” problem, allowing regulators and civil society to audit the algorithmic deployment of green claims.⁴⁰

7.4. Institutional Synergy: Finally, the CCPA (India) must evolve into a more technically capable regulator through institutional synergy. We propose the creation of a “Green Oversight Council” comprising representatives from the CCPA, SEBI (to align with BRSR/ESG disclosures), and ASCI. This unit should be staffed with environmental scientists and data auditors capable of detecting algorithmic deception. India must bridge the gap between consumer rights, securities law, and environmental science to ensure that the law values proven sustainability over marketed sustainability.

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