

**STRENGTHENING GREEN TRADEMARKS AND ECO-LABELLING IN THE FOOD
AND BEVERAGE INDUSTRY**

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ABSTRACT

As consumers' demand for sustainability continues to grow, businesses are increasingly leveraging green trademarks and eco-labels to showcase their dedication towards environmental responsibility. However, the widespread issue of greenwashing, where companies exaggerate or misrepresent their sustainability efforts, poses a significant challenge to maintaining consumer trust. This makes it increasingly important for businesses to adopt credible and verifiable sustainability practices that consumers can rely on. In this context, green trademarks play a crucial role. They signify that a product or service has been manufactured, sourced, or delivered in a manner that minimizes its impact on the environment. Within the food and beverage industry in particular, these trademarks communicate various aspects of sustainability such as a reduced carbon footprint, use of renewable materials, energy efficiency, or support for conservation efforts thereby assuring consumers of the authenticity of a company's environmental claims and fostering greater trust in sustainable brands. This study delves into the role of green trademarks and eco-labelling in preventing deceptive marketing tactics, fostering consumer confidence and ensuring authenticity in sustainability claims. This essay examines global regulatory frameworks, including the European Union's Green Deal to assess how these policies regulate and enforce green trademarks. It further explores notable case laws where companies faced repercussions for misleading environmental claims, while also analysing how businesses can fulfil distinctiveness criteria to secure trademark protection. Additionally, the research aligns these issues with the United Nations Sustainable Development Goals, particularly SDG 2 (Zero hunger) and SDG 12 (Responsible Consumption and Production), highlighting the importance of ethical and transparent sustainability practices in food and beverage industry. Through an in-depth analysis of case studies, consumer behaviour trends and preferences, this essay underscores the critical role of credible eco-labelling and green trademarks in shaping sustainable markets. It also offers effective recommendations for businesses to enhance impact of green trademarks, ensuring they act as genuine indicators of ecological responsibility rather than mere marketing measures.

I. INTRODUCTION: GREEN OR JUST A GIMMICK?

As Robert Swan rightly said “The greatest threat to our planet is the belief that someone else will save it.” Sustainability is no longer just a buzzword but has now become a consumer standard. From grocery stores to restaurants, brands are moving towards adopting more ‘organic’, ‘eco-

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friendly’ and ‘sustainable’ approach. But how many of these are selling what they preach? Since greenwashing is becoming a growing challenge, the need for and adoption of green trademarks and eco-labels have become crucial. This article sheds light not only on how businesses, regulators, and consumers can work together to enforce sustainability practices and strengthen consumer trust, but also on the legal frameworks that govern these efforts. It explores the application of trademark law and consumer protection statutes in addressing misleading environmental claims. The discussion draws from international regulatory approaches, including the European Union’s Green Deal, the Federal Trade Commission’s Green Guides, and Indian trademark law under Section 9, alongside landmark case law in which courts have addressed the misuse of environmental claims in branding.

II. THE BOOM OF GREEN MARKET

India’s food industry is increasingly adapting to growing demand for environment friendly practices while also addressing the issue of carbon footprint. A number of businesses are shifting towards sustainable alternatives such as cutting down plastic consumption and prioritizing ethical approaches. According to the Global Data 2024 Consumer Survey,¹ 59 percent of consumers in India revealed that their primary concern while purchasing any food item or drink is regarding how ethical, sustainable, and socially responsible the product is. The term ‘Conscious Consumerism’ is gaining quite prominence.² This is also referred to as Ethical consumerism, where individuals consider a number of factors while making their purchasing decisions. Interestingly, as per NIQ data,³ despite economic inflation, there is an increase in the number of consumers who prefer sustainable consumption. In addition to this, there is an increased emphasis on health and well-being in the post-pandemic world, with consumers being more eco-conscious and having higher standards regarding the quality of goods they purchase. As consumer trust in green products is evolving, it is also restructuring the market landscape. In another study published by the NIQ,⁴ it was estimated that around 77% of consumers are abandoning brands which contribute towards green washing. Food and Beverage Industries that engage in unethical practices and are unable to

¹ Outlook Planet Desk, *Food Service Gets Eco-Friendly Amid Rising Consumer Demand*, OUTLOOK BUSINESS (September 24, 2024), www.outlookbusiness.com/planet/sustainability/food-service-gets-eco-friendly-amid-rising-consumer-demand#:~:text=By%20reducing%20reliance%20on%20imported,associated%20with%20long-distance%20transportation.

² *The Future of Beverages: Sustainable Practices and Wellness*, NIQ (December 4, 2023) <https://nielseniq.com/global/en/insights/education/2023/the-future-of-beverages-sustainable-practices-and-wellness/>.

³ *Id.*

⁴ *Supra*, note 2.

authenticate their sustainability claims are being subjected to significant repercussions.⁵ For instance, beverage manufactures within European Union are encountering significant challenges due to regulations promoting sustainable development and increasing awareness amongst consumers regarding environmental issues. Ongoing discussions around climate change have led to international political interventions such as European Green Deal,⁶ compelling EU-based producers to adopt more sustainable business models.⁷ The idea of conscious consumerism while still being on the path of developing, is set to revamp the food and beverage industry. The studies⁸ indicate that green consumerism is on the rise,⁹ with consumers willing to pay a premium for products and services that are marketed as sustainable. This heightened consumer demand acts as a catalyst for regulatory action.¹⁰ As companies seek to capitalise on environmental consciousness, some mislead consumers into believing their products and services are eco-friendly. Such misrepresentation often conveyed through green trademarks, eco-friendly slogans, or certification marks results in wasted expenditure on goods that do not deliver promised environmental benefits. It erodes consumer trust and creates financial losses for consumers who purchase based on these misleading claims. In response, regulators have increasingly scrutinised green trademarks and eco-labels, with enforcement mechanisms such as the CCPA's *Greenwashing Guidelines 2024* targeting false environmental claims. In this way, consumer perception does not just influence purchasing decisions; it directly shapes how green trademarks are monitored, challenged, and regulated, ensuring that they function as genuine indicators of environmental responsibility rather than tools for deceptive marketing.

III. GREENWASHING: WHEN 'ECO-FRIENDLY' IS JUST A MARKETING STRATAGEM

The term "greenwashing" was officially introduced by the environmentalist Jay Westervelt back in 1986.¹¹ When a brand makes exaggerating assertions about a product's sustainability to gain a

⁵ Christopher Maász, Luisa Kroll and Michael Lingfelder, *Requirements of Environmentally-Aware Consumers on the Implementation and Communication of Sustainability Measures in the Beverage Industry: A Qualitative Kano-Model Approach*, 30(4) JOURNAL OF FOOD PRODUCTS MARKETING 118 (May 2024).

⁶ European Commission: Directorate-General for Communication, *The EU in 2021 – General report on the activities of the European Union*, PUBLICATIONS OFFICE OF THE EUROPEAN UNION 2022, <https://data.europa.eu/doi/10.2775/977534>.

⁷ *Supra*, note 5.

⁸ Ashley Reichheld, John Peto & Cory Ritthaler, *Research: Consumers' Sustainability Demands Are Rising*, HARV. BUS. REV. (September 18, 2023), <https://hbr.org/2023/09/research-consumers-sustainability-demands-are-rising>.

⁹ King Stubb & Kasiva, *Addressing Greenwashing In India: Laws, Regulations, And Ethical Implications*, MONDAQ - LAW ARTICLES AND INSIGHTS (February 10, 2025), www.mondaq.com/india/environmental-law/1581456/addressing-greenwashing-in-india-laws-regulations-and-ethical-implications.

¹⁰ Vanessa Turk, *The Potential for Greenwashing from "Green" Trademarks and Marketing*, THE GW LAW AND ENVIRONMENT AND ENERGY LAW BLOG (August 12, 2023), <https://blogs.gwu.edu/law-gwpointsource/2023/08/12/the-potential-for-greenwashing-from-green-trademarks-and-marketing/>.

¹¹ *Id.*

competitive edge in the market, it is termed as ‘greenwashing’. Such a practice involves misleading consumers in the name of selling an eco-friendly good. Companies engaged in greenwashing may claim that their products are made from recycled materials or promote them as energy-efficient despite such claims being unsubstantiated.¹² This technique basically refers to the deceptive use of green marketing strategies to create an impression that a company’s products are more environmentally friendly than they truly are.¹³ If a consumer doubts the authenticity of a company’s environmental assertions, they are less likely to make eco-friendly purchases.¹⁴

The Federal Trade Commission in the United States by the way of its Green Guides, and the European Union’s Unfair Commercial Practices have provided clarity on what qualifies as misleading environmental claims. Under both the frameworks, there is a prohibition on the use of vague or deceptive terms such as sustainable, green or eco unless they are substantiated properly. A lot of actions have been taken against such companies who indulge in misleading practices through lawsuits or class action suits. A prominent case was set in Italy where a court rules in favour of a competitor’s advertising complaint on green washing.¹⁵ A micro-fibre manufacturer alleged that its rival company had falsely marketed its product as environmentally friendly. The court found the rival company’s statement as false and misleading and thus imposed an injunction that required the removal of these assertions from all advertisements and online platforms with immediate effect. This case upheld the idea of honest environmental marketing techniques.¹⁶ The focus on the United States and the European Union in this discussion is deliberate, as both jurisdictions have developed some of the most mature and influential regulatory frameworks for addressing greenwashing. The US Federal Trade Commission’s Green Guides and the EU’s Unfair Commercial Practices Directive, supported by the European Green Deal, have set widely recognised standards that define what constitutes misleading environmental claims, prohibiting vague or unsubstantiated use of terms like “eco,” “green,” or “sustainable.” These regimes are not only more comprehensive in scope but also enjoy higher enforcement visibility, making them valuable benchmarks for other jurisdictions, including India, in shaping their own approaches.

¹² Yu-Shan Chen & Ors., *The Negative Impact of Greenwash on Green Purchase Intention*, 2(2) INT. J. MGMT. APP. SCI (2016).

¹³ Yu-Shan Chen & Ching-Hsun Chang, *Greenwash and Green Trust: The Mediation Effects of Green Consumer Confusion and Green Perceived Risk*, 114(3) J. BUS. ETHICS, 489-500 (2012).

¹⁴ Mayumi Kris Ghassani et. al., *The Effect of Greenwashing, Green Word of Mouth, Green Trust and Attitude towards Green Products on Green Purchase Intention*, 5(3) BUDAPEST INTERNATIONAL RESEARCH AND CRITICS INSTITUTE-JOURNAL, 25508-25520 (2022).

¹⁵ Alcantara S.p.A. v. Miko S.r.l., 712/2021 (Italy).

¹⁶ Kathryn Park, *Green Trademarks and the Risk of Greenwashing*, WORLD INTELLECTUAL PROPERTY ORGANIZATION, (December 13, 2022) www.wipo.int/en/web/wipo-magazine/articles/green-trademarks-and-the-risk-of-greenwashing-42943.

While the EU and US frameworks establish clear prohibitions on vague or unsubstantiated environmental claims, the Indian regulatory landscape is still evolving towards similar precision.

That said, the issue of greenwashing is not confined to Western economies. Other countries are also introducing targeted legislation. China, for example, has embedded environmental claims within its Advertising Law,¹⁷ which requires that any environmental assertion in an advertisement be truthful, clear, and supported by verifiable evidence, with non-compliance leading to administrative penalties. Brazil, through its Consumer Protection Code, similarly prohibits misleading environmental claims, treating greenwashing as a deceptive advertising practice subject to fines and corrective measures.¹⁸ In India, greenwashing is not addressed directly under the Trade Marks Act, 1999, but falls within the ambit of the Consumer Protection Act, 2019 and the enforcement powers of the Central Consumer Protection Authority (CCPA). The CCPA's 2022 Guidelines on Misleading Advertisements and the more recent Greenwashing Guidelines, 2024,¹⁹ have begun to mirror the EU's approach by requiring that all environmental claims whether in advertising, branding, or trademarks, be specific, verifiable, and supported by credible evidence.

This comparative shift demonstrates that while India is adopting global best practices, enforcement remains largely reactive, driven by consumer complaints and regulatory interventions rather than proactive pre-clearance as seen in the EU. An important question is raised as to what qualifies as actionable greenwashing. One example of greenwashing can be labelling a garbage bag as compostable, even though it is ultimately disposed of in a landfill where it will not decompose as intended. In parallel to this, advertisement of a product, claiming it to be recyclable such as a plastic bottle, when only a part of it can be recycled, can be deceptive thus causing environmental damage. In the past year, several lawsuits have been filed against giant corporations like Coca-Cola, Blue Triton Brands (manufacturer of Poland Spring, Deer Park and other water brands for asserting claims regarding sustainability while most of their plastic bottles still end up in landfills instead of being recycled).

¹⁷ Céline Bey & Ors., *Greenwashing: Exploring the risks of misleading environmental marketing in China, Canada, France, Singapore and the UK*, LEXOLOGY (September 25, 2023). www.lexology.com/library/detail.aspx?g=60ba3a71-a8b6-44d0-832a-f32dd30b98fb.

¹⁸ *Complying With Brazil's Consumer Protection Code*, DIAZ REUS, <https://diazreus.com/complying-with-brazils-consumer-protection-code/>.

¹⁹ Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims, 2024, Ct. CONSUMER PROT. AUTH., INDIA (Oct. 15, 2024), https://doca.gov.in/ccpa/files/Greenwashing_Guidelines.pdf.

Companies and businesses often engage in repackaging, rebranding and strategic marketing in order to attract those consumers who are environmentally conscious. That said, this mostly leads to green washing. A common tactic adopted is to modify the logo or colour scheme or incorporating eco-friendly slogans to create a belief of being eco-friendly. There is no harm in acceptance of these changes but the problem arises when such changes results into the misrepresentation of the true nature of the product and company's true practices. This can then result into greenwashing.²⁰ For instance, the Advertising Standards Council of India (ASCI) prohibited Bharat Petroleum's 2017 advertisement claiming "Go Green with Speed for IT Reduces Emissions" due to the lack of verifiable environmental benefits. Similarly, Godrej Industries' campaign for its Good Knight Fast Card mosquito repellent claimed it was "100% natural" and "chemical-free," a representation that ASCI deemed false and misleading. Hindustan Unilever Limited (HUL) also engaged in similar misrepresentation, marketing 'Surf Excel Easy Wash' as "100% natural" and "environment-friendly" despite synthetic ingredients, leading to a Ministry of Environment and Forests case and a fine of INR 10 lakhs by the Central Pollution Control Board. Likewise, Godrej Consumer Products faced scrutiny for advertising its Godrej No. 1 soap as "100% natural," "biodegradable," and "eco-friendly" despite containing synthetic elements. These cases demonstrate how green marks and eco-friendly slogans, when unsubstantiated, can cross into deceptive trade practices. They illustrate that without credible evidence, the use of such environmental branding risks not only eroding consumer trust but also attracting regulatory and legal consequences, making it essential that green trademarks operate within transparent and enforceable frameworks to prevent greenwashing.

IV. GREEN TRADEMARKS AND ECO-LABELLING: MORE THAN JUST A LABEL

A green trademark is defined as a trademark, service mark or certification mark that can be used to distinguish and identify products that are environmentally friendly, favouring the interest of conscious consumers.²¹ Such marks typically include words, symbols, or logos displayed on product packaging or advertisements that indicate the sustainable materials used in the production of that product. By the use of a green trademark, a company gains the advantage to market and promote its brand and business practices as eco-friendly and sustainable. In today's time of greater

²⁰ *Supra*, note 10.

²¹ *Supra*, note 10.

environmental awareness, green trademarks have emerged as a crucial marketing tool, showcasing an environmentally responsible image to enhance market value.²²

The European Union Intellectual Property Office [“EUIPO”] published its Green EU Trade Marks Report in 2021, which examined the trademark filings by analysing over 900 terms related to sustainability and environmental protection. The study revealed a steady increase in trademarks incorporating such terms, growing from fewer than 1,600 in 1996 (the EUIPO’s first year of operation) to nearly 16,000 by 2020. At present, green-related trademarks make up approximately 10 to 12 percent of all yearly filings. However, trademark applications that contain explicit environmental claims, such as labelling a product as “green”, “sustainable”, or “eco-friendly”, often face the risk of rejection during the registration process.²³

The concept of “Green Trademarks” falls under Article 7 of the European Union Trade Mark Regulation 2017/1001, which addresses issues related to non-distinctiveness and descriptiveness in trademark registration. This provision highlights the challenges faced by trademarks that lack uniqueness or are purely descriptive, which may result in refusal of registration if they fail to meet the distinctiveness criteria required for trademark protection.²⁴ A large number of green marks fail to meet the distinctiveness requirement because they rely on generic environmental terminology that merely describes the nature, quality, or intended purpose of the goods rather than distinguishing their commercial origin. Terms such as “green,” “eco,” “bio,” “organic,” or “natural” are widely understood by the public as descriptors of environmentally friendly products, not as indicators of a particular brand. Under trademark law, such descriptive terms must remain available for all businesses to use fairly in trade, and granting exclusivity would risk creating an unjust monopoly over common language essential for competitors. Another reason for refusal is that green-related marks frequently lack inherent distinctiveness due to their widespread use in the market. Symbols such as green leaves, recycling arrows, planetary icons, or green colour schemes have become standard industry imagery for sustainability, and the average consumer perceives them as generic environmental cues rather than brand identifiers. This makes it difficult for such marks to be recognised as originating from a single commercial source unless they incorporate distinctive stylistic features or have acquired secondary meaning through extensive and exclusive

²² Massimo Maggiore, *Can Trademarks Ever Be Green? Between Green-Branding and Greenwashing - International Trademark Association*, INTL TRADEMARK ASS’N (March 10, 2021) www.inta.org/perspectives/features/can-trademarks-ever-be-green-the-line-between-green-branding-and-greenwashing/.

²³ *Supra*, note 16.

²⁴ *Brobet v. EUIPO*, Case T-772/21 (2023).

use. Under European Union trademark laws and recent rulings by the General Court of the European Union, it is evident that the court considers commonly used and generic terms, such as “natural” or “bio”, to be non-distinctive and descriptive, thereby failing to qualify as trademarks.

In the case of *Groschopp AG Divers & More v. EU Intellectual Property Office*, the court ruled that the phrase “sustainability through quality” serves as a promotional slogan rather than a distinctive trademark identifying a product’s commercial origin. The strict approach to descriptiveness in environmental marks serves an important role in preventing the misuse of common sustainability terms and labels. Yet, it also highlights the need for businesses to adopt more imaginative branding if they wish to secure protection. Marks that combine environmental references with distinctive elements whether through inventive wording, unique visual treatment, or recognised certification are more likely to pass the distinctiveness threshold. In this way, trademark law can continue to safeguard the register from generic claims while still leaving space for authentic, verifiable green branding that contributes meaningfully to sustainable trade.

V. INDIAN PERSPECTIVE

Similar to the European Union, green trademarks in India often face objections under Section 9 of the Trade Marks Act on the grounds of non-distinctiveness and descriptiveness. However, in several instances, the Indian Trademark Registry has granted protection to such marks when they are combined with one or more unique words, making them sufficiently distinctive to qualify for registration.²⁵ As propounded in the case of *Nature’s Essence Pvt Ltd v. Protogreen Retail Solution Pvt Ltd*,²⁶ Justice C. Hari Shankar of the Delhi High Court ruled that:

“When the term “Nature’s” is combined with words like “Inc.” or “Essence,” it acquires a distinct and unique identity, differentiating it from the generic term “Nature” alone.”

The court emphasized that even if “Inc.” is considered an abbreviation for “Incorporated”, the resulting trademark maintains a clear and distinguishable identity. Often, brands secure protection for their green claims through certification marks, which serve as verification that a product meets

²⁵ Rupin Chopra, *Sustainability Seals: Understanding Green Trademarks and Greenwashing*, S.S. RANA & CO. (Aug. 29, 2024), https://ssrana.in/articles/sustainability-green-trademarks-greenwashing/#_ftn4.

²⁶ *Natures Essence Private Limited v. Protogreen Retail Solutions Private Limited*, CS(COMM) 581/2020 & I.A. 12750/2020 (India).

specific environmental standards and regulations. However, it remains the responsibility of brands to establish their authenticity by presenting credible evidence to consumers. Notable eco-certification marks include Energy Star Label, India Organic, and GreenPro, which indicate compliance with environmental guidelines. Additionally, several brands in India have successfully registered green trademarks. For instance, Godrej has trademarked the tagline “Good & Green”, underscoring its commitment to producing environmentally sustainable products and contributing to a greener India. Likewise, beauty brands such as Mama Earth and Biotique are recognized as green trademarks due to their emphasis on natural and eco-friendly formulations.

Two significant green trademarks in India today are Godrej and Nestlé. Godrej’s “Good & Green” initiative highlights its dedication to reducing pollution and fostering environmental sustainability. Nestlé, in a similar effort, pledged in 2018 that by 2025, all of its products would be 100% recyclable and reusable, further reinforcing its commitment to sustainability.²⁷ However, the registration of a green trademark or certification mark is not the end of regulatory scrutiny. Once granted, these marks and the environmental claims they embody remain subject to enforcement by other regulatory authorities, particularly the Central Consumer Protection Authority (CCPA) under the Consumer Protection Act, 2019. The CCPA has the mandate to investigate and take action against improper trade practices, including false or misleading environmental claims. In 2022, it issued the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements,²⁸ applicable to all advertisements and all parties involved in their dissemination. These were strengthened in 2024 through the Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims,²⁹ which explicitly define greenwashing as any deceptive practice involving vague, false, or unsubstantiated environmental claims, including misleading words, symbols, or imagery.

Under the 2024 Guidelines, businesses making environmental claims must provide verifiable evidence and full disclosure of material information, often through QR codes, URLs, or other accessible digital formats. Selective highlighting of favourable data, vague terminology, and aspirational claims without a clear basis are prohibited. This enforcement mechanism ensures that certification marks like GreenPro or Ecomark are not misused to create a false impression of

²⁷ G. Nivveditha and S. Rajasri, *Preserving Authenticity in Green Trademark: A Study of Green Trademarks and Their Legal Challenges in India*, 5(11) INTL. J. RES. PUBL'N & REV 5864-5867 (2024).

²⁸ *Guidelines on Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022*, PIB DELHI (2024), www.pib.gov.in/PressReleasePage.aspx?PRID=1832906.

²⁹ *Guidelines prohibits companies from engaging in Misleading Environmental Claims and Greenwashing*, PIB DELHI (2024), www.pib.gov.in/PressReleasePage.aspx?PRID=2064963.

sustainability. In September 2024, the Ministry of Environment, Forest, and Climate Change further bolstered this system by notifying the Ecomark Rules, 2024,³⁰ introducing a more robust eco-labelling scheme to promote sustainable products across sectors including food, cosmetics, soaps, and electronics.³¹ While these developments represent significant progress, there remains a need for greater integration between trademark law and consumer protection mechanisms. Green trademarks, often creating the first impression of a product's eco-friendliness, have the potential to mislead if not backed by genuine environmental compliance. A coordinated approach where trademark registration is accompanied by post-registration monitoring under CCPA oversight would ensure that green marks operate as genuine indicators of sustainability rather than marketing devices susceptible to greenwashing.

VI. WHERE DO WE GO FROM HERE?

The adoption and proper use of green trademarks can serve as a valuable asset for brands aiming to emphasize upon their commitment to environment. When such trademarks gain recognition in the market, they attract a potential of environmentally conscious consumers thereby uplifting their brand's value. Yet there still lies a challenge of securing the registration of these marks including India. To reduce the probability of refusal of these trademarks, it is crucial to avoid generic, nature centric terms and instead come up with such trademarks that are a unique combination of words. This indicates that the trademark should be more suggestive rather than descriptive in nature.³² Additionally it is the duty of the regulatory authorities to continuously review and bring changes to the existing policies to combat greenwashing and ensure that green trademarks operate within a transparent framework that guarantees credibility. Policy reform is also essential. Trademark law, both in India and globally, must develop mechanisms to distinguish between marks that merely adopt green language or imagery for market appeal and those that reflect verifiable sustainability practices. This could involve global harmonisation of standards, where certification marks for environmental terms similar to ISI or Hallmark are regulated so that words like “green,” “eco,” “carbon neutral” or “organic” have specific criteria attached to their use. Such regulation would protect the credibility of these terms and reduce the scope for arbitrary application.

³⁰ Ministry of Environment Forest and Climate Change, *Ministry of Environment, Forest and Climate Change notifies Ecomark Rules under Lifestyle for Environment initiative*, PIB DELHI (2024), www.pib.gov.in/PressReleasePage.aspx?PRID=2061878.

³¹ Dr Sunanda Bharti, *Going Green as a Garnish—A Brief Analyses of Green Trademarks Situation in India and related Ethos*, SPICYIP (29 May 2025), <https://spicyip.com/2025/05/part-ii-going-green-as-a-garnish-a-brief-analyses-of-green-trademarks-situation-in-india-and-related-ethos.html>.

³² *Supra*, note 25.

Within the Indian framework, Section 9(1)(c) of the Trade Marks Act already empowers the Registrar to refuse marks that consist exclusively of common or customary indications. However, the proviso to Section 9(1) which allows registration of descriptive marks if they have acquired distinctiveness should be applied cautiously in the case of green marks. Relaxing these standard risks legitimising environmental claims that may not be substantiated, thereby perpetuating greenwashing. Similarly, Section 9(2)(a), which prohibits marks likely to deceive the public or cause confusion, should explicitly capture green trademarks that falsely project a commitment to sustainable practices.³³ Since trademark registration in India is not mandatory, unregistered marks containing environmental claims also pose a risk. In such cases, enforcement can be supported by existing mechanisms under the ASCI Code, which prohibits misleading environmental claims such as “100% herbal” or “chemical-free” when they are factually inaccurate. Section 2(47) of the Consumer Protection Act, 2019, which defines unfair trade practices to include false or misleading claims, offers another route for intervention. By aligning trademark scrutiny with consumer protection principles, regulators can ensure that environmental terms used in branding are backed by verifiable data.

Effective regulation must also address the definitional vacuum surrounding “green” claims. Without a clear legal framework specifying whether “green” refers to recycled content, biodegradability, carbon reduction commitments, or contributions to environmental causes, compliance expectations remain unclear and enforcement inconsistent. This ambiguity not only exposes consumers to misleading claims but also leaves businesses uncertain about the limits of permissible branding. Public awareness campaigns, targeted educational initiatives, and consumer redress mechanisms must therefore be strengthened to encourage vigilance and timely reporting of misleading claims. India’s long-term objective should be the creation of a comprehensive green policy with trademarks at its core supported by global alignment of standards, certification-based regulation of environmental terms, robust enforcement under consumer protection laws, and enhanced public awareness. Such an integrated approach would ensure that green trademarks function as genuine indicators of sustainable practice, rather than as convenient marketing tools.

³³ *Supra*, note 31.