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WOKE-WASHING AS A MISLEADING TRADE PRACTICE: A LEGAL AND BEHAVIOURAL ANALYSIS OF THE REGULATORY GAP IN INDIA

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ABSTRACT

The phenomenon of 'woke-washing'—where corporations publicly align with progressive social causes without making substantive internal changes—has emerged as a significant yet underregulated form of consumer deception. This paper argues that woke-washing constitutes a misleading trade practice under the Consumer Protection Act, 2019 (CPA 2019), and identifies a critical regulatory gap in the Indian consumer protection framework. Drawing on doctrinal legal analysis, comparative regulatory review across the United States, United Kingdom, European Union, and Australia, and an examination of prominent Indian brand case studies, the paper demonstrates that the existing provisions of the CPA 2019 inadequately address the intangible, identity-based harm caused by performative social activism. The paper further contends that the 2024 CCPA Greenwashing Guidelines, while precedentially significant, provide only an analogical template that requires legislative extension to social claims. The paper concludes with concrete recommendations for statutory amendment, including an expanded definition of 'misleading advertisement,' codification of social-cause deception as an Unfair Trade Practice, and the adoption of mandatory substantiation requirements for social claims.

Keywords: Woke-Washing, Consumer Protection Act 2019, Misleading Advertisement, Unfair Trade Practice, Brand Activism, CCPA, Greenwashing Guidelines, Identity-Based Harm

I. INTRODUCTION

The modern marketplace has witnessed a fundamental transformation in the grammar of advertising. Indian corporations, responding to growing social consciousness among Gen Z and Millennial consumers, have increasingly embraced 'brand activism'—publicly positioning themselves as champions of gender equality, LGBTQ+ rights, caste inclusion, and religious

harmony. While genuine corporate advocacy can contribute meaningfully to social discourse, a troubling parallel phenomenon has emerged: woke-washing, defined as a corporation's public signal of support for a social cause in the absence of any substantive alignment between its internal operations and the values it espouses.

The term was systematically theorized by Vredenburg et al. (2020), who identified a 'Say-Do Gap'—the measurable divergence between prosocial messaging and actual corporate practice—as the hallmark of performative activism. This gap is not merely a marketing failure; in the Indian context, where cultural and social identities are intensely personal and politically charged, it constitutes a form of consumer deception that warrants serious legal attention.

India's Consumer Protection Act, 2019 provides a broad mandate to protect consumers from misleading advertisements and unfair trade practices. Yet its provisions—drafted largely with functional product claims in mind—have not been interpreted to capture the intangible, morality-laden harm inflicted by false social branding. This paper addresses this regulatory gap by situating woke-washing within the existing legal framework, examining comparative international regulatory approaches, and proposing targeted legislative reforms to make India's consumer protection regime fit for purpose in an era of purpose-driven marketing.

II. CONCEPTUALISING WOKE-WASHING: A TAXONOMY OF HARM

A. Definitional Framework

Woke-washing sits within a broader taxonomy of 'washing' practices—deceptive corporate communications that exploit the credibility of social and environmental movements for commercial advantage. It is distinguishable from greenwashing (false environmental claims), pinkwashing (performative LGBTQ+ solidarity), and cause-washing (exploitation of charitable causes), although these categories frequently overlap. The unifying characteristic is decoupling: the systematic separation of outward brand narrative from internal corporate reality.

Sobande (2019) characterises this decoupling as the 'commodification of struggle,' wherein the aesthetics of activism are appropriated and stripped of their political radicalism. Corporations adopt the language, iconography, and emotional register of social movements—without incurring any of the costs, risks, or commitments that genuine advocacy entails. In doing so, they exploit what Ahmad et al. (2024) term the 'psychological contract' between brand and

consumer: the implicit understanding that when a brand publicly aligns itself with a cause, its internal conduct is consistent with that alignment.

B. Psychological Harm to Consumers

The consumer harm caused by woke-washing operates at multiple levels. At the individual level, it triggers what Ahmad et al. (2024) call 'Brand Betrayal'—a morally-charged form of disillusionment that differs qualitatively from ordinary product dissatisfaction. The consumer has not merely purchased an inferior product; they have been manipulated into making a moral choice predicated on a falsehood. Walter et al. (2024) demonstrate empirically that consumers with high 'cause involvement'—precisely those most likely to respond positively to activist marketing—are paradoxically the most vulnerable to the psychological injury of woke-washing, and the most likely to respond with organised retaliation.

Jalan and Pranjal (2023) provide the empirical foundation for understanding this harm in the Indian context. Their research demonstrates that Indian consumers engage in collective, digitally-organised retaliation when they perceive woke-washing—boycotts, negative word-of-mouth campaigns, and coordinated social media mobilisation. These responses, while informal, constitute evidence of quantifiable market injury. Nag and Shailesh (2025) further document that 71% of Indian consumers now approach social claims with an immediate 'Skepticism Shield'—a default cynicism that, perversely, also undermines genuine corporate social responsibility initiatives.

C. Market Distortion

Beyond individual harm, woke-washing constitutes a systemic distortion of market efficiency. Consumers in the modern marketplace are willing to pay an 'Ethical Premium' for products and services they believe are produced in accordance with social values they endorse. A corporation that captures this premium through performative activism, without incurring the costs of genuine ethical conduct, gains an unfair competitive advantage over brands that genuinely internalise their social commitments. Peltomäki et al. (2024) provide quantitative evidence of this distortion, demonstrating that woke-washing reduces labour investment efficiency by approximately two-thirds compared to authentic corporate woke engagement.

III. THE INDIAN LEGAL FRAMEWORK: PROVISIONS AND GAPS

A. Misleading Advertisement Under Section 2(28) CPA 2019

Section 2(28) of the Consumer Protection Act, 2019 defines a 'misleading advertisement' as one which gives a false description of a product or service; gives a false guarantee; is likely to mislead consumers as to the nature, substance, quantity, or quality of the product; or conveys an express or implied representation that would constitute an unfair trade practice. On its face, this definition is broad enough to encompass social misrepresentations. The 'nature' and 'substance' of a product are not limited to its physical attributes; in the contemporary marketplace, the ethical provenance of a product—whether it is produced by empowered workers, whether it supports the communities it claims to represent—is a material characteristic that influences consumer purchasing decisions.

The interpretive challenge lies in the absence of judicial or regulatory guidance applying these provisions to intangible social claims. Courts have historically construed 'nature' and 'substance' in relation to functional product characteristics. A brand's claim to be an 'ally' of marginalised communities, or to be 'committed to gender equality,' does not fall neatly within established categories of misleading representation. This interpretive gap has allowed woke-washing to proliferate in a legal grey zone.

B. Unfair Trade Practice Under Section 2(47) CPA 2019

Section 2(47) defines 'unfair trade practice' as a trade practice that, for the purpose of promoting the sale, adopts any unfair method or deceptive practice. The subsections enumerate specific categories of deceptive conduct, including false representation about the standard, quality, or grade of goods or services. Woke-washing may be characterised as an unfair trade practice on the basis that it generates an 'Ethical Premium'—brands charge consumers a surplus, whether in monetary terms or through loyalty, for a social attribute that does not actually exist. This is structurally analogous to misrepresenting the grade or quality of a physical product.

Smith and Crain (2025) provide the doctrinal bridge for this argument: when a brand markets its labour practices as equitable or its employment culture as inclusive in order to attract ethically-minded consumers, and those representations are false, the resulting transaction is procured by deception. The deception is not incidental to the sale; it is causally constitutive of the consumer's decision to engage with the brand.

C. The CCPA and Institutional Enforcement Architecture

The Central Consumer Protection Authority (CCPA), established under Section 10 of the CPA 2019, is empowered to conduct investigations into violations of consumer rights, take suo motu cognizance of misleading advertisements, issue recall orders, and impose fines of up to ₹50 lakh for subsequent offences under Section 21. This institutional architecture is, in principle, well-suited to addressing systematic woke-washing. Unlike courts, which are reactive, the CCPA can proactively investigate entire sectors and industries.

However, the CCPA's existing Guidelines on the Prevention of Misleading Advertisements and Endorsements (2022), while establishing that advertisements must be truthful and not misrepresent the utility of a product, do not explicitly address social claims. The CCPA's enforcement practice has, to date, focused primarily on product-specific functional misrepresentations.

D. The 2024 Greenwashing Guidelines: A Template for Reform

The most significant recent development in the Indian regulatory landscape is the CCPA's October 2024 Guidelines on Prevention and Regulation of Greenwashing. These Guidelines establish three foundational pillars that, while directed at environmental claims, provide a directly applicable template for regulating social claims: Substantiation (all environmental claims must be supported by reliable scientific evidence); Adequate Disclosure (material information, including the specific scope and limitations of the claim, must be accessible to consumers through QR codes or URLs); and a Ban on Generic Terms (unsubstantiated generic environmental labels such as 'eco-friendly' or 'green' are prohibited without specific definitional support).

The jurisprudential logic underpinning these pillars is of general application. The regulatory concern is not specific to environmental deception; it is the broader principle that corporations should not be permitted to exploit information asymmetry—their knowledge of internal practices versus the consumer's access only to curated marketing communications—to extract a premium (whether financial or reputational) from consumers on the basis of unverifiable ethical claims. This logic applies with equal force to social claims.

IV. COMPARATIVE REGULATORY ANALYSIS

A. The European Union: Mandatory Structural Accountability

The European Union has developed the most comprehensive mandatory framework for

corporate social accountability. The Corporate Sustainability Reporting Directive (CSRD), which entered into force in January 2023, requires approximately 50,000 large and listed companies—including third-country companies with significant EU revenue—to publish independently audited disclosures on workforce diversity, gender pay equity, supply chain labour practices, and community impact, in accordance with the European Sustainability Reporting Standards (ESRS). The proposed Green Claims Directive (2023) would further require businesses to pre-verify any voluntary social claim with an accredited third-party assessor before publication.

The structural significance of the EU approach is that it eliminates the information asymmetry that enables woke-washing: a corporation cannot claim social leadership in its marketing communications while simultaneously reporting contrary data in its legally mandated, independently assured CSRD disclosure. This represents the most effective legislative architecture available globally against social-cause deception.

B. The United Kingdom: Standard-Based Enforcement

The United Kingdom's regulatory framework combines advertising standards enforcement with financial sector regulation. The Advertising Standards Authority administers codes requiring that all marketing claims be substantiated and not misleading. The Competition and Markets Authority's Green Claims Code (2021), while directed at environmental claims, articulates six principles—truthfulness, clarity, completeness, comparability, lifecycle integrity, and substantiation—that apply to all consumer-facing responsibility claims. The Financial Conduct Authority's Anti-Greenwashing Rule (effective May 2024) requires all sustainability-related claims by authorised firms to be fair, clear, and consistent with the actual characteristics of the product or service.

The Boohoo Group plc case (2020) provides a paradigmatic illustration of the multi-vector legal consequences of supply chain woke-washing: a 45% decline in share value, investigations by the Equality and Human Rights Commission, and contractual terminations by major retail platforms—all triggered by revelations that the brand's progressive public positioning concealed severe labour exploitation in its supply chain.

C. The United States: Enforcement-Led Approach

The United States addresses social misrepresentation primarily through the deceptive practices prohibition in Section 5 of the Federal Trade Commission Act and the materiality standard

applicable to investor-facing disclosures under SEC securities regulations. The SEC's enforcement actions against BNY Mellon Investment Adviser (2022) and Goldman Sachs Asset Management (2022) established the principle that ESG representations—including their social dimension—must be accurate and not misleading in investor communications. The FTC's 2022 Request for Information on proposed updates to the Green Guides explicitly solicited comment on whether similar guidance should be extended to social claims.

D. Australia: Statutory Prohibition on Misleading Conduct

Australia's Australian Consumer Law imposes a broad statutory prohibition on misleading or deceptive conduct in trade or commerce, applicable to representations about the 'standard,' 'quality,' 'history,' or 'grade' of goods and services. The ACCC's 2023 guidance on sustainability claims—while environmentally focused—articulates eight principles that apply to social responsibility claims, and the Woolworths Group (2023-24) controversy illustrated the role of civil society in bringing supply-chain social claim mismatches to regulatory attention.

E. Synthesis: Lessons for India

The comparative analysis reveals a clear global trajectory towards impact-based regulation—from self-regulatory, complaint-driven regimes towards mandatory, independently verified disclosure obligations. India's current framework, which lacks formal coordination between SEBI, CCPA, MCA, and ASCI in relation to social claims, sits at the reactive end of this spectrum. The SEBI Business Responsibility and Sustainability Reporting (BRSR) framework provides an emerging disclosure mandate for listed companies, but neither its depth nor its enforcement mechanisms yet match the EU's CSRD. The most critical lesson from comparative analysis is that mandatory ex ante third-party verification of social claims—placing the burden of proof on the claimant corporation rather than on regulators or consumers—is the single most effective structural reform available.

V. INDIAN CASE STUDIES: THE SAY-DO GAP IN PRACTICE

A. Tanishq 'Ekatvam' (2020): Opportunistic Activism Exposed

The 2020 Ekatvam ('Oneness') campaign by jewellery brand Tanishq depicted an interfaith family celebrating a traditional Hindu baby shower, positioned as a celebration of communal harmony. The campaign attracted immediate and severe backlash from Hindu nationalist groups, who accused the brand of cultural insensitivity. Tanishq's response—rapidly

withdrawing the advertisement and issuing a public apology—proved far more damaging than the initial controversy. The withdrawal demonstrated that the brand's commitment to communal harmony was contingent on commercial safety: it would advocate for social values only so long as doing so was profitable, and retreat at the first sign of market pressure.

This case exemplifies what this paper terms 'Conviction-Based Absence': the brand not only failed to stand behind its own stated values but confirmed through its retreat that those values had never been genuinely internalised. Jalan and Pranjal's (2023) framework of consumer retaliation is particularly apt: both conservative consumers (offended by the content) and progressive consumers (who perceived the withdrawal as cowardice and performatism) mobilised against the brand, producing a 'Double-Edged Backlash' that caused significant reputational and financial damage.

B. Glow & Lovely (2020): Cosmetic Rebrand or Cultural Reform?

The 2020 rebranding of Hindustan Unilever's flagship fairness cream—from 'Fair & Lovely' to 'Glow & Lovely'—provides one of the most legally significant instances of woke-washing in the Indian market. The rebranding was publicly presented as a response to the global anti-racism movement and growing awareness of the harm caused by the colourism implicit in skin-lightening products. HUL's communications framed the change as an act of social responsibility.

However, intellectual property records reveal that HUL had sought trademark protection for the name 'Glow & Lovely' as early as 2018—well before the 2020 BLM movement that the rebranding ostensibly responded to. This suggests that the commercial timing of the announcement was strategic rather than reactive: the brand captured the reputational value of appearing to respond to a social crisis that had not yet occurred at the time the decision was made. More critically, the product itself remained a skin-lightening cream; the 'Say-Do Gap' was not merely between communications and internal practices, but was embedded in the product. The removal of the word 'fair' from the packaging, while the formulation and underlying commercial proposition remained unchanged, is a paradigmatic instance of what Lizzi (2024) calls 'Legacy Inconsistency': a superficial rebranding that fails to constitute a 'CSR reorientation.'

C. Dove 'Stop the Beauty Test' vs. Fair & Lovely: Institutional Hypocrisy

Dove India's 'Stop the Beauty Test' campaign (2021) attacked the demeaning beauty standards

embedded in Indian matrimonial customs—the scrutiny of women's skin colour, height, and weight in the groom-seeking process. Simultaneously, Dove's parent company Unilever marketed Fair & Lovely (subsequently rebranded as Glow & Lovely), a product whose entire commercial rationale was premised on the aspiration for lighter skin. The 'Parent Company Paradox' in this case is not merely a logical inconsistency; it is a case of the same corporate entity profiting simultaneously from both the social problem and the commercial solution to it. This is the precise type of conduct that Section 2(47) of the CPA 2019, properly construed, ought to reach: a trade practice that exploits consumers' social values to generate commercial advantage, while the corporation's broader conduct actively perpetuates the conditions the campaign claims to oppose.

D. Fabindia 'Jashn-e-Riwaaz' (2021): Cultural Identity and Digital Justice

Fabindia's release of its Diwali collection under the title 'Jashn-e-Riwaaz' ('Celebration of Tradition') in October 2021 generated a boycott movement (#NoBindiNoBusiness) driven by allegations that the brand had 'de-Hinduised' the Hindu festival through the use of Urdu nomenclature and the absence of the bindi from female models. The controversy illustrates a distinctive dimension of woke-washing in the Indian context: 'Secular-Washing,' where brands attempt to adopt a cosmopolitan, inclusive aesthetic that, in a polarised market, is perceived as performative erasure of religious identity.

The Fabindia case is also significant for what it reveals about the limits of informal digital accountability. The #NoBindiNoBusiness movement demonstrated both the potency of consumer-led enforcement—the viral campaign caused measurable commercial damage—and its structural inadequacy as a substitute for formal regulation. Digital vigilantism, as Trottier (2017) notes, is decentralised, susceptible to bad-faith weaponisation, and operates without the procedural safeguards of due process. The CCPA's institutional capacity to investigate and adjudicate such claims provides a more structured and legally legitimate mechanism.

VI. RECOMMENDATIONS FOR LEGISLATIVE AND REGULATORY REFORM

A. Statutory Amendment: Section 2(28) CPA 2019

The definition of 'misleading advertisement' should be amended to explicitly encompass false or unsubstantiated representations about the social, ethical, or environmental attributes of a product or service. A revised definition might read:

"Any advertisement that falsely describes a product or service or gives a false guarantee, or is likely to deceive consumers as to the nature, substance, quality, standard, composition, characteristics, or ethical and social qualities of such product or service, shall constitute a misleading advertisement."

This expansion acknowledges the legal materiality of the ethical provenance of products in contemporary consumer decision-making, placing social claims on the same footing as functional claims for purposes of regulatory scrutiny.

B. Statutory Amendment: Section 2(47) CPA 2019

Section 2(47) should be amended by the insertion of a new sub-clause expressly defining 'Social-Cause Deception' as an unfair trade practice, comprising: (i) making unsubstantiated assertions about social, ethical, or diversity commitments without verifiable evidence; (ii) raising empowerment claims without corresponding systemic inclusion; (iii) selective reporting of social impact data that presents a misleadingly positive picture; and (iv) using undefined generic social justice terminology as a marketing device. This codification would provide the CCPA and consumer courts with clear statutory authority to address woke-washing, without requiring courts to stretch existing provisions beyond their intended scope.

C. Enhanced Penalties for Identity-Based Deception

The penalty provisions of Section 21 should be amended to impose enhanced fines—proposed at ₹2 crore for first offences and ₹5 crore for subsequent offences—where woke-washing is found to have caused 'Identity-Based Harm': harm to consumers by exploiting their emotional or moral investment in the social cause invoked by the brand. This enhanced penalty regime reflects the higher social costs of identity-based deception relative to ordinary product misrepresentation.

D. Adoption of Social-Cause Deception Guidelines by the CCPA

The CCPA should promulgate comprehensive Guidelines on Prevention and Regulation of Social-Cause Deception, modelled on the 2024 Greenwashing Guidelines but adapted to social claims. The core elements of these Guidelines should include: (i) a Substantiation Mandate requiring brands to support social claims with independently verified internal data; (ii) an Adequate Disclosure obligation requiring brands making social claims to provide consumer-accessible detailed information on the scope, methodology, and limitations of those claims

through QR code-linked disclosure pages;

(iii) a Generic Terms Prohibition barring the use of terms such as 'inclusive,' 'empowering,' 'fair,' or 'equal' without specific definitional and evidential support; and (iv) an Aspirational Claims Rule requiring brands making future-oriented social pledges to have clear, actionable roadmaps with annual milestones, with failure to demonstrate progress constituting a deceptive practice.

E. Mandatory Third-Party Verification

The single most structurally significant reform would be the introduction of mandatory ex ante third-party verification of social claims by entities making such claims in consumer-facing communications above a defined revenue threshold. This would shift the burden of proof from consumers and regulators—who currently bear the practical burden of identifying and proving deception—to the claiming corporation, which possesses the information necessary to substantiate its claims. This is consistent with the direction of the EU's proposed Green Claims Directive and with the general principle that regulatory burdens should be allocated to the party best placed to manage them.

VII. CONCLUSION

Woke-washing is not a peripheral marketing phenomenon. It is a systematic deceptive practice that causes quantifiable harm to consumers—psychological, moral, and financial—while distorting market competition and undermining the integrity of corporate social responsibility as a meaningful institutional practice. The existing provisions of India's Consumer Protection Act, 2019, while broad enough in principle, lack the specificity and interpretive development necessary to effectively address this form of deception. The 2024 Greenwashing Guidelines of the CCPA represent a significant advance, but their analogical extension to social claims requires explicit legislative and regulatory action.

The comparative analysis undertaken in this paper demonstrates that India's regulatory peers are increasingly moving towards mandatory, independently verified social disclosure requirements—a trajectory that India's own BRSR framework has begun to follow, but has not yet completed. The recommendations advanced here—statutory amendment, enhanced penalties, CCPA guidelines, and mandatory third-party verification—constitute a coherent and proportionate package of reforms that would make the Indian consumer protection regime

genuinely fit for the purpose of regulating the 21st-century marketplace, where the ethical character of a brand is as material to consumer decision-making as the functional quality of its products.

As Kim et al. (2024) demonstrate through their Woke-Washing Scale, consumers have already developed sophisticated mechanisms for identifying and responding to performative social claims. The law must now catch up. The integrity of India's marketplace—and the credibility of genuine corporate social responsibility—depends on it.

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