

Green Marketing vs Green Washing

We support our clients engaging in and marketing their innovative solutions, achievements and efforts to drive their businesses to a more earth-friendly, carbon neutral, sustainable future

The issue

Customer demands for sustainable products and ethical practices are ever increasing - making sustainability a top priority for companies.

“Green marketing” has become a central tool for sales and the prices companies can generate for a product or service. At the same time, in view of the immense advertising impact, regulators and courts have long recognised the need to take action and have established strict requirements with the aim of preventing “green washing”, i.e. unsubstantiated or misleading environmental claims.

From the Paris Agreement and the European Green Deal to the UN Sustainable Development Goals (“UN SDGs”), hard and soft law in this area is growing in volume and impact. The International Organization for Standardization developed an international standard on self-declared environmental claims (ISO 14021:2016) (“ISO norm”). The EU commission has published Guidelines for Making and Assessing Environmental Claims (“EU Guidelines”), consistent with ISO 14021:2016. The International Chamber of Commerce has issued a non-binding Advertising and Marketing Communications Code (“ICC Guidelines”) setting up certain requirements on environmental advertising.

What we do

We have a leading practice advising clients on strategies to develop new products, product concepts and marketing strategies in terms of sustainability. Sustainability achievements can help companies stand out to customers who are increasingly demanding environmental and ethical awareness from companies and their products and services.

The ISO norm and both the EU and ICC Guidelines state that claims about general environmental benefits of a product or service such as “sustainable”, “environment-friendly” or “ecological” must not be made without qualification. The inclusion of international standards for sustainability and the implementation of systems and internal controls to ensure ethical principles are crucial, but they are only the beginning. Green marketing regularly also has to include disclosure of the standards and control systems applied, as well as underlying methods and assumptions.

We advise on:

- developing strategies for positioning goods and services as “sustainable”, “green”, “earth-friendly”, “carbon neutral”, “ozone friendly”, “renewable”, “recyclable”, “ecological”, “organic”, “clean”, “locally sourced” or similar;
- global IP protection for sustainable goods and services (e.g. patents and trademarks) and enforcement of IP rights;
- meeting specific regulations as well as reporting requirements and systems that need to be put in place for documentation;
- communication with regulators, consumer protection organisations and competition associations demonstrating compliance of products, claims and trademarks with sustainability benefits; and
- sustainability and social impact principles and best practices.

Our impact

We partner with our clients to help them achieve and market their contribution to more earth-friendly, carbon neutral, sustainable products, services and business solutions. Examples include:

- Advising a multinational online retailer on development of strategies to comply with recycling requirements and plastic material restrictions in the EU
- Advising a leading European food manufacturer on their strategy for using thinner packaging materials and marketing of more environment-friendly packaging
- Advising an international food company on requirements under the EU Guidelines, ICC Guidelines, and ISO Standards on marketing of sustainability claims
- Advising a leading manufacturer of vegan food products on relaunch and marketing of its product portfolio
- Advising an international consumer goods company on compliance with international standards and methodologies to assess the environmental impact of their products and operations
- Advising an international oil manufacturing company on global trademark protection for sustainable oils and lubricants

Useful links

- [Business Integrity Group](#)
- [Business Integrity and Sustainable Development](#)
- [Business integrity for consumer companies](#)

Relevant contacts



Elizabeth B. Fawell
Partner, Washington, D.C.
elizabeth.fawell@hoganlovells.com



Mareike Hunfeld
Counsel, Hamburg
mareike.hunfeld@hoganlovells.com



Christiane Alpers
Counsel, Hamburg
christiane.alpers@hoganlovells.com



Patrick Fromlowitz
Counsel, Hamburg
patrick.fromlowitz@hoganlovells.com

**Hogan
Lovells**

www.hoganlovells.com

“Hogan Lovells” or the “firm” is an international legal practice that includes Hogan Lovells International LLP, Hogan Lovells US LLP and their affiliated businesses. © Hogan Lovells 2021. All rights reserved. 06483