

# Dynamic of law

Law



GREENWASHING AND ADVERTISING (Ethical considerations and dynamics of law) of (affiliation) Location of University:

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## GREENWASHING AND ADVERTISING

Modern-day advertising is a fairly recent industry just a few decades old. It is generally believed to have started under inauspicious circumstances when the product “ snake oil” was first sold and marketed to unsuspecting buyers by unscrupulous people who wanted to cash in on the popularity of an ointment made from snake oil intended as a topical (skin rub) application to cure arthritis and joint pain. The original formula for snake oil contained Omega-3 acids from a snake in China that can help to reduce inflammation. However, a fraudster named Clark Stanley cashed in on the popularity of this “ patent medicine” and claimed the liniment can cure a variety of ills such as headaches, chronic pain, kidney troubles, and “ female complaints” such as the menstrual pain (dysmenorrhea) and even male baldness. Because of this connotation, snake oil is used as a synonym for fraud especially in relation to false claims made about a product or service. This is why advertisers today practice ethical standards with the catch phrase “ truth in advertising.”

Fraud as a legal construct is a civil wrong which means a victim of fraud can recover money paid for a product or service which did not live up to the claims of the seller. As criminal act, a person perpetrating a fraud is subject to criminal liabilities and imprisonment if convicted by government authorities who try to protect the buying public by giving out warnings.

Snake oil was sold in the nineteenth century to an unsuspecting public through the back page of pamphlets and newspapers claiming it is a

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panacea (cure-all) although it no longer contained the original Chinese snake oil but instead was a mixture of mineral oil, beef fat, red pepper, and turpentine (Gandhi, 2013). Since then, a good number of consumer products were often being sold without any regard for the truthfulness of the claims made by the manufacturer or the seller; included are medicines, consumer durables, organic foods, and also firms claiming their product is “green.” Greenwashing is a newly-coined term derived from the words “green” and “washing” in a deceptive attempt by any company to portray itself to the buying public as an environmentally friendly organization in order to promote the sales of its product or service. This is because of a growing consciousness of caring for the environment resulting from global warming and climate change together with the depletion of non-renewable energy sources that resulted in degradation of the environment and the so-called “commons” of community resources. It is the term used to indicate “green marketing techniques based on false claims or unverified benefits using “green” advertising to promote a product when in fact the manufacturer had spent more time and money on making that specific green claim than actually making their products really green. The very idea of greenwashing rides on a growing environmentalism where people have a renewed sense of stewardship (Athans, 2013); greenwashing is a violation of the code of ethics by advertisers.

As the main government agency tasked to regulate commerce and protect consumers, it is quite unusual for the Federal Trade Commission (FTC) to merely issue a warning without any sanctions for companies that engaged in greenwashing although its “Green Guides” is good way to raise consumer awareness about how false claims and deceptive advertising can undermine

their faith in a product or service. From a legal standpoint, the warning does not carry much teeth and the FTC leaves the work to the state attorneys general to enforce consumer protection laws.

Coca-Cola was once charged with greenwashing back in 2009 for deceptively claiming its plastic bottles contained 30% of the plant-based materials (which means it is bio-degradable) when this claim is doubtful and largely unverified (MacDonald, 2009). However, a prominent maker of detergents, Clorox, gained praises for its environmental programs (Levere, 2013).

#### References

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