



DENTONS

# Legal framework applicable to Greenwashing

Country focus: China

Grow | Protect | Operate | Finance



China	
Legal definition of greenwashing	✗
Targeted greenwashing legislation	✗
Direct regulation of greenwashing (through consumer protection, advertising standards, unfair competition or environmental law frameworks)	✓
Soft law guidance or standards on greenwashing	✓
Applicability of existing national legal frameworks to greenwashing (depending on facts)	✓

## Summary of relevant laws and provisions

In China, greenwashing, or the use of misleading or deceptive environmental claims, can be regulated by various legal frameworks, such as consumer protection law, civil law, environmental standards law, advertising law, unfair competition law, criminal law etc.

1. Consumer protection law prohibits business operators from making false or misleading propaganda and statements about their goods or services. The law applies to consumer refers who purchases, uses or accepts goods or service for personal life. Consumers, whose legitimate rights and interests are infringed while purchasing or using goods, have the right to claim for compensations from the sellers concerned. In case of greenwashing, the business operator shall be subject to a fine not less than one time but not more than ten times of the value of the illegal gains and if no illegal gains is found, a fine of less than CNY 500,000 will apply.
2. Civil law prohibits the conduct of intentionally concealing material facts or providing false information concerning the conclusion of the contract. The law applies to all civil activities including all deals of goods and services and protects all parties to the contract, or third parties harmed by product defects/environmental pollution.
3. Environmental law requires reporting on nature related risks. Regulations on Enterprise Environmental Information Disclosure requires two types of companies to conduct assessment of climate change vulnerability. They are 1) some of the public companies or bond issuers, and 2) companies determined by environmental authority as high environmental risks. In case of non-compliance, the economic penalty is up to CNY 100,000.
4. Advertising law specifies that an advertisement will be a false advertisement if it deceives or misleads consumers with false or confusing content. The law imposes specific obligations and prohibitions on the advertising. Where a false advertisement is published, a fine of not less than three times and not more than five times of the advertising cost shall be imposed or a fine of not less than CNY200,000 and not more than CNY1 million shall apply.
5. Unfair competition law applies to all goods and services. A business operator shall not conduct any false or misleading commercial promotion to deceive or mislead the relevant public. In case of any false or misleading commercial promotion a fine of between CNY100,000 and CNY1 million shall apply.
6. Criminal law does not expressly regulate greenwashing acts, but it could apply to greenwashing with material deception consequence. For example, when a company issues green bonds but invests in fossil fuel projects, criminal penalty might apply in case of serious loss incurred to investors.



## Summary of guidance and soft law

In addition to the legal frameworks mentioned above, there are also some guidance and soft law instruments that aim to prevent or reduce greenwashing in China. These include:

1. Advertising Compliance Guidelines by local law enforcement provide do's and don'ts on various claims.
2. China Green Bond Principals ("Principals") provide guidance on green investment. Financial institutions often take the Principals as the standard to define green projects.

## Claims & enforcement

Greenwashing claims can be brought up by various individuals or entities, depending on the legal basis and the type of remedy sought. These include:

1. Consumers, whose legitimate rights and interests are infringed while purchasing or using goods, have the right to claim for compensations from the sellers.
2. China Consumers' Association and its provincial-level may represent relevant consumers to initiate legal proceedings.
3. Competitors may file a lawsuit in a people's court if its lawful rights and interests are infringed by an unfair competition act.
5. NGOs can bring civil actions in cases of deceptive commercial practices, infringement of legal rights or environmental pollution.

5. Local governments can initiate administrative proceedings and impose sanctions for violations of consumer protection law, environmental standards law, advertising law, unfair competition law or criminal law, such as fines, injunctions or confiscation.
6. Prosecutors may initiate criminal proceedings where criminal law might apply.

## Sanctions & remedies

The sanctions and remedies for greenwashing vary according to the legal basis and the nature of the infringement. They include:

1. Government penalty up to CNY 500,000 for making false or misleading claims about their goods or services.
2. Civil damages, such as actual loss of customers.
3. Injunctions to stop or prevent the greenwashing practice.



## Evidence & substantiation

The following rules generally to the evidence and substantiation requirements:

1. In governmental penalty cases, the company making the claims must provide official evidence to support the accuracy and the justification of the claims.
2. The government officials have investigative powers and can require the disclosure of any document or information that may justify the claims.
3. In civil damages cases, the claimant must prove the existence and the harm of the greenwashing practice. The respondent must prove the accuracy and the justification of the claims.
4. The courts can order any measure of inquiry or expertise that may be useful for the resolution of the dispute, such as the examination of witnesses, the production of documents, or the appointment of an expert.

## Recent litigation

Recent cases/decisions made focusing specifically on greenwashing in China:

1. All-China Environment Federation files a lawsuit, in 2022, against Greentech Beijing Co., Ltd for making untrue CO2 emission claims. This case was published by China Ministry of Ecology and Environment as a reference for determining false environmental claims.
2. A public company, Shanxi Sanwei Group (“Sanwei”), was sued for failing to disclose in its annual report the environmental non-compliance acts. In 2020, the court determined that Sanwei intentionally made inaccurate disclosure and therefore awarded the investors of a total compensation of CNY 11 million.
3. A public company Jiangsu Huifeng Agrochemical Co., Ltd. (“Huifeng”) made an untrue statement in its annual report regarding its environmental impact. 4 investors represented 230 other investors and filed a collective lawsuit against Huifeng. This was the first collective lawsuit that investors are allowed to elect representatives by themselves. In 2021, the court awarded the investors of a total compensation of more than CNY 18.7 million.



## Key contact



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Gary Yang is the founder of Dacheng China ESG Legal Center and a member of BritCham ESG Committee. He was also a member of Dentons Global ESG Steering Committee. In 2023, he was nominated by Asia Legal Awards as ESG Lawyer of the Year, and was awarded by Legalband as China Top 15 Lawyer: ESG and Green Economy. During the time he led ESG practice at Dentons China, Dentons was nominated by British Chamber of Commerce as one of the finalists of ESG China Awards. In July 2022, Legal 500 published the inaugural Global Green Guide and Dentons was recommended for China region with respect to sustainable-related legal services.

In 2023, a corporate liability case represented by Gary Yang was published by China Supreme Procuratorate as a guiding precedent for businesses seeking non-prosecution verdicts. In China, a guiding case serves as a pivotal reference for judicial decision-making, much like case law in other legal systems. This case has become the first in China to attain a non-prosecution decision through the implementation of an ESG improvement plan and also the first non-prosecution verdict for multinational company environmental criminal liability.