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# Greenwashing and Carbon Offsets: An Unresolved Regulatory Intersection.

## *Legal framework around Greenwashing using Carbon Offsetting*

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**ABSTRACT:**
Greenwashing and carbon offsetting intersect in complex and consequential ways. This paper examines whether the existing regulatory framework adequately addresses greenwashing through carbon offsetting, with a comparative focus on the European Union and India. Carbon offsetting allows entities to claim climate neutrality by financing emission reductions elsewhere, but it is frequently misused through vague claims, phantom credits, and insufficient disclosure. Drawing on legal cases, independent investigation reports, and a critical analysis of regulations, including the EU's Empowering Consumers for the Green Transition Directive, the Corporate Sustainability Reporting Directive (CSRD), European Sustainability Reporting Standards (ESRS), India's Greenwashing Guidelines 2024, and the Carbon Credit Trading Scheme (CCTS), the paper evaluates how effectively these frameworks address the core concerns. The analysis finds that while the EU has developed a more granular disclosure-based regime, India's broader prohibitory approach has potential but requires further specificity. Both jurisdictions would benefit from stronger enforcement, standardized methodologies, and clearer provisions on offset quality and timing. The paper concludes that carbon offsetting can contribute to genuine climate finance if underpinned by a robust, transparent, and enforceable regulatory architecture.

*Keywords: greenwashing, carbon credits, climate neutrality, CCTS, ESG disclosure, comparative law*

### 1. Introduction

The first recital of the United Nations Framework Convention on Climate Change (UNFCCC) recognizes the 'change in the Earth's climate and its adverse effects' as 'a common concern of humankind.' This statement sums up the gravity of the problem and probably even points to the root cause of why it remains unresolved. Climate change impacts everyone on this planet, so it needs progressive and effective contributions from all. Not only are there non-active participants present, but also those who pull the progress made backwards. One such step back is greenwashing.

Greenwashing is more than mere deception; it delays climate action and involves misutilization of the already limited resources. It has become a regular phenomenon that entities promote false solutions to the climate crisis, employing varied tactics. Different means of greenwashing are adopted by entities to mislead stakeholders by presenting them with greener images. Carbon offsetting is also used as a method of greenwashing, such as by masquerading carbon offsetting as emissions reductions at source or by overestimating the emissions offset.

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While taking cognizance of such controversies and proactively addressing greenwashing, different authorities and jurisdictions are implementing various directives, regulations and standards along with initiatives and guidance from private actors. For instance, the Proposal for a Directive on substantiation and communication of explicit environmental claims, the Empowering Consumers for the Green Transition Directive and the European Sustainability Reporting Standards (ESRS). To what extent such regulations, standards, and guidance address greenwashing related to carbon offsets is an area to explore.

Even though carbon offsetting is considered a popular and sophisticated form of greenwash, it is a significant driver in the run-up to meeting climate goals. The situation raises some relevant questions. Is it worth it? Whether there is a possibility of using carbon offsetting without rendering it a mere greenwashing tool? Is the regulatory framework achieving such an optimal equilibrium? This paper will attempt to address such questions by first introducing greenwashing and carbon offsetting individually, moving to practical examples of their intersection and then critically evaluating the effectiveness of regulations in the EU in this regard with a comparative analysis of the rules in India.

## 2. Greenwashing

The term 'greenwashing' has entered almost every conversation involving climate change. However, there is no single definition of the word. Jay Westerveld originally coined the term in the context of a hotel's attempt to masquerade its cost-saving measure of reusing towels as an environmental strategy (Becker-Olsen & Potucek, 2013). More often, the term is used to refer to outwardly green acts with an underlying purpose of increasing profits or building green brands without adequate action or simply diverting attention from acts endangering the environment.

The European Commission has said that companies adopt the practice of greenwashing to mislead consumers and give a false impression of their environmental impact, which results in the falling trust of consumers. The OECD refers to greenwashing as environmental claims that are 'unsubstantiated and possibly inauthentic' and 'generally cases of exaggeration, rather than outright falsehood.' Greenwashing encompasses all instances where more is claimed than actualized in terms of positive environmental action (de Freitas Netto et al., 2020). Approximately 42% of the green claims examined by the EC and national consumer protection authorities were found to be greenwashed. The global action needed to achieve the climate goals is slowed down and resources are directed to the verification of claims instead of productive climate action.

Over the decades, greenwashing has become increasingly sophisticated (Yang et al., 2020). Volkswagen was accused of cheating on pollution tests while claiming to be carbon neutral through their offsetting programmes, which were of low quality and caused major conflicts for local communities. Starbucks launched a 'straw-less lid' campaign, but this lid contained more plastic than the old lid and straw combination. The UN has listed examples of the tactics used for greenwashing, including asserting progress toward achieving net-zero emissions despite lacking a credible, actionable strategy; using misleading labels like 'green' or 'eco-friendly' without standardized definitions; and

highlighting a single positive environmental factor while overlooking other significant ecological impacts (United Nations, n.d.).

Greenwashing is not always completely false; in general, deceptive marketing claims have existed for a long time. Yet, greenwashing draws much attention. The reason for this lies in the essence that mobilized climate change as a movement. Its seriousness lies in the urgency of climate action. Human activities have caused approximately 1.0°C of global warming above pre-industrial levels, estimated to reach 1.5°C between 2030 and 2052 if continued at the same rate (IPCC, 2019). Any act that stalls or delays climate progress is detrimental, and greenwashing is one such act. It makes it difficult for consumers to differentiate between genuine claims and gimmicks, damages trust and public confidence, promotes corruption, and serves as a setback for innovation (Aji & Sutikno, 2015; Koch & Denner, 2025; Lyon & Montgomery, 2015).

For the purpose of this article, the term "greenwashing" can be assessed through three distinct but overlapping legal lenses. Consumer protection law addresses misleading commercial practices at the point of sale, focusing on whether an environmental claim is capable of deceiving the average consumer. Corporate disclosure frameworks govern the information entities are required to report about their sustainability performance, emissions, and the use of instruments such as carbon credits, prioritising comparability and accuracy of information. Climate governance instruments assess whether environmental claims are aligned with the entity's broader climate commitments under frameworks such as the Paris Agreement and national carbon market regulations. Each of these legal approaches applies different standards, involves different institutional actors, and gives rise to different remedies, all of which are relevant to the analysis of greenwashing through carbon offsetting in this article.

## 3. Carbon Offsetting and the Legal Framework Around It

'Carbon offsetting' is the process, tool or mechanism by which greenhouse gas emissions are adjusted by one entity using reductions achieved by another entity (Helppi et al., 2023). Such adjustment may be a voluntary act or to comply with statutory requirements. It enables the entities to meet climate goals. Offsetting is promoted as part of the 3-step process of 'measuring, reducing and offsetting' to work towards climate neutrality. The moot point is that the entity that claims to be 'carbon neutral' or has become 'net-zero', through carbon offsetting, is not the one that has actually reduced its greenhouse gas emissions; rather, it has an arrangement with someone else who has been able to reduce emissions (Porras et al., 2016).

Offsetting is often considered to be a convenient and more cost-effective means of meeting climate goals. It argues that one tonne of carbon reduced at any place is equivalent to one tonne of carbon produced elsewhere, and the two can set off each other, thereby generating a tradeable good, namely carbon offset. The prevalence of carbon offsetting is supported and enabled by the carbon market, which can be divided into the compliance market and the voluntary market. The compliance market caters to actors covered by regulatory obligations. The voluntary market is for non-regulated actors who voluntarily adopt climate targets.

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The history of offsetting is tied to the first cap-and-trade system. Under the Kyoto Protocol, the Annexe-1 countries could trade with other countries that had excess Assigned Amount Units (AAUs) through the Emissions Trading Scheme (ETS) or offset their excess emissions using projects developed under the Clean Development Mechanism (CDM) or Joint Implementation (JI) mechanism (Michaelowa et al., 2019; Paulsson, 2009). The Paris Agreement marked a significant turning point by bringing nearly all countries together in a collective commitment to reduce emissions. Under Article 6, it provides for bilateral agreements between countries (Article 6.2), a framework for the validation and issuance of carbon credits through a central authority (Article 6.4), and other measures of cooperation (Article 6.8).

COP 29 has taken the operationalisation of carbon markets under Article 6.4 a step ahead by adopting the standards for a centralised carbon market through the Paris Agreement Crediting Mechanism (PACM).

A major critique of offsetting is its role in greenwashing. It allows polluters to disguise their emissions by claiming reductions elsewhere (Hyams & Fawcett, 2013; Baras, 2024; Aldred, 2012; Kim et al., 2024). Many carbon projects are under the scanner for violating the principle of additionality. The principle of additionality entails that there has to be a reduction of emissions in addition to what would have taken place in the absence of the said carbon project (Trouwloon et al., 2023). It is observed that to save money, polluting entities opt to buy cheap credits which may have defaults such as the lack of consistency, permanence and adequate methodologies (Trencher et al., 2024; Kollmuss, 2009). Despite the criticism, carbon offsetting has many takers because it reduces emissions even if in a different location, provides an alternative for hard-to-abate industries, and allows the flow of finance to regions most vulnerable to climate change (Anderson et al., 2017; Broekhoff et al., 2019).

The quality of a carbon offset is assessed at project level against four core criteria. Additionality requires that the emission reduction achieved by a project would not have occurred in the absence of the carbon credit incentive and the reduction must be additional to the business-as-usual baseline. Permanence requires that the emissions reduction or removal is durable and not reversed over time, which is a particular concern for nature-based projects such as reforestation where fire, disease, or land use change can destroy stored carbon. Leakage refers to the risk that emissions avoided in one location are displaced to another, such that the net global reduction is less than claimed. Double counting arises where the same emission reduction is claimed by more than one party for instance, by both the host country under its Nationally Determined Contribution and the purchasing entity under a voluntary target which results in an inflation of total claimed reductions. These four criteria underpin the assessment frameworks of crediting programmes such as the CDM, Gold Standard, and Verra VCS, and are reflected in the regulatory disclosure requirements examined below.

## 4. Greenwashing Involved in Carbon Offsetting: Legal Cases and Investigations

This article adopts a doctrinal and comparative legal methodology. Doctrinal legal research, which involves the systematic examination and critical evaluation of primary legal sources including legislation, case law, and regulatory guidance, is a recognised and

independently sufficient research method in legal scholarship. No separate empirical or quantitative methodology is required or claimed. The legal cases and investigative reports examined in this section were selected on a purposive basis: cases were included where they directly concerned environmental or neutrality claims made on the basis of carbon offsetting, where they arose in jurisdictions with developed consumer protection or climate governance frameworks, and where they are available in English or officially translated form. A distinction is maintained throughout between: (i) final judicial decisions, which represent binding legal findings; (ii) appellate rulings, which confirm or overturn those findings; (iii) regulatory findings by advertising and consumer protection authorities, which are persuasive rather than binding; and (iv) pending litigation and investigative reports, which represent allegations that have not been judicially determined. Where cases remain pending, this is explicitly stated.

The following cases underscore the intricacies and potential vulnerabilities inherent in carbon offsetting, and how they are used by entities to make exaggerated or invalid environmental claims.

In Switzerland (2023), the Swiss Fairness Commission held that FIFA's claim that the World Cup 2022 in Qatar was a 'carbon-neutral' event amounted to greenwashing. FIFA significantly underestimated the event's greenhouse gas emissions and employed ineffective carbon offsetting measures (KlimaAllianz v FIFA, 2022). In Germany, a series of cases addressed 'climate neutral' product labelling. The Regional Court of Düsseldorf held that a candle manufacturer's advertisement about 'climate neutral candles' was misleading, emphasising that corporate philosophy must be separated from product characteristics in environmental claims (Regional Court of Düsseldorf, 2013). The Regional Court of Konstanz held that claims of climate-neutral heating oil were misleading, noting that complete information was necessary, including whether climate neutrality was achieved through energy reductions or carbon offsetting (Regional Court of Konstanz, 2021). The Regional Court of Mönchengladbach held that calling a jam 'climate neutral' when carbon dioxide produced during manufacturing was subsequently offset amounted to misleading consumers, emphasising that quick messaging was key while selling products like jam jars (Regional Court of Mönchengladbach, 2022). In the case of climate-neutral sweets, the Regional Court of Kleve initially held no misleading practice was involved, which was upheld by the Higher Regional Court of Düsseldorf, but the German Federal Court of Justice ultimately overturned this, holding that an ambiguous term like 'climate neutral' must be explained in the advertisement itself (Regional Court of Kleve, 2022; Regional Court of Düsseldorf (Higher), 2023; Federal Court of Justice, 2024). Similarly, the Regional Court of Kiel held that bin liners packaged with a 'climate neutral' label were misleadingly advertised, though the Higher Regional Court of Schleswig overturned this, while observing that climate neutrality need not be achieved entirely by avoiding emissions during production (Regional Court of Kiel, 2021; Regional Court of Schleswig (Higher), 2022). The Regional Court of Düsseldorf held that Total Energies must stop advertising 'climate neutral' and 'CO2-compensated' heating oil as such advertisements amounted to consumer deception, and that it should be specific about the offsetting schemes used (Deutsche Umwelthilfe v TotalEnergies, 2023). In the Netherlands, the Advertising Code Committee held that Shell's 'Make a difference. Drive CO2 neutral' campaign was misleading as the average consumer would understand that

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emissions were completely compensated, when they were not (Reclame Code Commissie, 2021). The Amsterdam District Court held that KLM's CO2 offsetting claims were misleading, noting that CO2 compensation may reduce the negative aspects of emissions to some extent but does not reduce the CO2 emissions themselves (Foundation To Promote The Fossil-Free Movement v Royal Airlines, 2024). In the United States, a class action suit was filed against Danone Waters of America for false and misleading advertising of 'Carbon Neutral' labelling on Evian Natural Spring water (Stephanie Dorris and John Axiotakis v Danone Waters of America, 2024), and a class action suit has been filed against Delta Airlines for its claim to be the world's first carbon-neutral airline based on carbon offsetting, which remains pending before the Federal Court (Mayanna Berrin v Delta Airlines, 2024). In Australia, the ACCC engaged with V8 Supercars on misleading tree-planting offset claims (Australian Competition and Consumer Commission, 2008), and Climate Integrity filed a complaint against Qantas before the ACCC regarding its 'fly carbon neutral' and other sustainability statements.

On phantom credits, a Greenpeace Canada study alleged that Shell Canada received a 2-for-1 deal from the Government of Alberta for its Quest carbon capture and storage project, selling credits for two tonnes of carbon dioxide for every tonne captured. An investigation by Climate Home News alleged that Shell (China) used unscientific methods in rice farming offsetting projects and consciously reduced the size of land to reduce checks, with additionality questioned given the technique had been in use for over two decades. Verra, a prominent certifier of carbon credits, was alleged in a Guardian and SourceMaterial investigation to have significantly exaggerated emissions reductions associated with its 'avoided deforestation' credits, with more than 90% of such credits potentially being phantom credits.

Even with the available regulatory framework, legal cases involving claims by entities to be climate-neutral based on offsets exist and are growing. The primary concern appears to be the lack of transparency and the absence of a bona fide intent. The Courts have been taking a stringent view against entities engaging in greenwashing and considering such practices unlawful and misleading.

## 5. Regulatory Overview: EU and India

To understand the nature of the approach being taken by regulatory bodies towards greenwashing and carbon offsetting, this section gives an overview of the relevant regulations in the EU and India.

**5.1 European Union.** The EU has introduced the Directive on Empowering Consumers for the Green Transition (ECGT) to provide consumers with adequate information which will be effective in September 2026 (Council Directive (EU) 2024/825, 2024). The ECGT provides that environmental claims related to carbon neutrality should be supported by clear and verifiable information, with detailed and realistic implementation plans regularly verified by independent third party experts. Claims based on offsets are allowed only if based on the actual life cycle impact of the product. The European Commission had also proposed the Green Claims Directive to regulate voluntary green claims by prescribing specific assessments for substantiation but the proposal was withdrawn (European Commission, 2023). The Directive proposed that claims based on offsets would be transparent and separate from a company's direct

emissions, and there would have been a requirement to report on the usage of offsets versus emissions reductions and to provide information about the quality of offsets specifying if they were through removals or reductions.

The Corporate Sustainability Reporting Directive (CSRD) aims to strengthen rules concerning social and environmental information, with specific emphasis on preventing greenwashing and double-counting (Council Directive (EU) 2022/2464, 2022). The European Sustainability Reporting Standards (ESRS), which supplement the CSRD, require separate disclosure of the percentage of emissions covered by offsets and the methodology used (Commission Regulation (EU) 2023/2772, 2023). The EU Taxonomy and Sustainable Finance Disclosure Regulation (SFDR) further address greenwashing in the context of sustainable investments. The Carbon Removal Certification Framework (CRCF) is aimed at standardizing the certification of carbon removal activities (Regulation (EU) 2024/3012, 2024).

**5.2 India.** India has issued the Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims under the Consumer Protection Act, 2019, in October 2024 (Ministry of Consumer Affairs, India, 2024). The Greenwashing Prevention guidelines are in furtherance to the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022. The Greenwashing Prevention guidelines strictly prohibit engaging in greenwashing and misleading environmental claims, requiring that all environmental claims be based on independent and third-party verifications. The Advertising Standards Council of India (ASCI) has also issued guidelines for advertisements making environmental or green claims. In case of carbon offset claims, the ASCI guidelines require a clear disclosure if the carbon offset does not occur within the next two years. Advertisements must not assert that a carbon offset signifies an emission reduction if the reduction was mandated by law.

The Carbon Credit Trading Scheme (CCTS) has operationalised the Indian Carbon Market (Bureau of Energy Efficiency, India, 2023). SEBI has introduced the Business Responsibility and Sustainability Reporting (BRSR) framework, aligned with international reporting frameworks such as GRI and TCFD.

**5.3 Global Standards.** Global standards including the IFRS Sustainability Disclosure Standards (IFRS SDS), the Global Reporting Initiative (GRI) Standards, and the TCFD recommendations play a pivotal role in shaping the regulatory framework. The Integrity Council for the Voluntary Carbon Market has also issued the Core Carbon Principles (CCPs), which consist of ten science-driven guidelines to identify high-quality carbon credits. The Voluntary Carbon Markets Integrity Initiative (VCMI) has introduced the Claims Code of Practice to increase trust in the use of carbon credits by enhancing their credibility.

The following table sets out a comparative overview of the regulatory frameworks governing greenwashing through carbon offsetting in the EU and India. The asymmetry across several parameters reflects the difference in regulatory maturity between the two jurisdictions rather than regulatory intent.

| Parameter | European Union | India |
|---|---|---|
| **Scope of application** | ECGT: traders making voluntary environmental claims. CSRD/ESRS: companies above 1,000 employees and | Greenwashing Guidelines 2024: all advertisers under Consumer Protection Act, 2019. BRSR: listed entities. CCTS: |

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| | | |
|---|---|---|
| | EUR 450M net annual turnover (Omnibus Directive 2026/470). | 490 obligated entities across 9 energy-intensive sectors from FY2025-26. |
| **Definition of greenwashing / environmental claim** | ECGT defines 'environmental claim' broadly. Greenwashing addressed through prohibition of misleading commercial practices (Directive 2005/29/EC as amended). | Greenwashing Guidelines 2024 explicitly define both 'environmental claim' and 'greenwashing', covering neutral, positive, or less harmful environmental representations. |
| **Substantiation for offset-based claims** | ECGT: product-level neutrality claims based on offsetting prohibited unless based on actual lifecycle impact. Green Claims Directive: proposed but withdrawn in 2025. ESRS: offset disclosure separate from emission reduction targets. | General requirement to substantiate all environmental claims with independent third-party verification. No specific lifecycle assessment provision. ASCI requires robust and credible accreditation. |
| **Disclosure requirements specific to offsets** | ESRS: separate disclosure of GHG removals and mitigation projects financed through carbon credits. Carbon credits excluded from GHG reduction target computation. Disclosure of type, source, quality, and Article 6 alignment required. | ASCI: disclosure required if offset does not occur within two years. General disclosure obligations under Greenwashing Guidelines. BRSR: disclosure of emissions reduction efforts including offsetting. No specific offset-type or quality disclosure requirements yet. |
| **Verification mechanism** | ECGT: independent third-party verification. CSRD/ESRS: statutory audit and assurance of sustainability reports. CRCF: certification of carbon removal activities. | Greenwashing Guidelines: independent third-party verification for all environmental claims. CCTS: BEE-accredited Verification Agencies for MRV. Voluntary market: crediting programmes (CDM, Gold Standard, Verra VCS). |
| **Enforcement body** | National consumer protection authorities (ECGT, enforceable from 27 September 2026); financial market regulators (SFDR); EU Commission and Member State courts (CSRD). | Consumer protection authorities under Consumer Protection Act, 2019 (Greenwashing Guidelines). SEBI (BRSR). Bureau of Energy Efficiency and CERC (CCTS). ASCI (self-regulatory, persuasive). |
| **Remedies** | Prohibition of misleading commercial practices; civil and administrative penalties under national consumer protection law; corrective advertising. Financial penalties under CSRD. | Consumer protection remedies under Consumer Protection Act, 2019. CCTS: non-compliance results in mandatory purchase of Carbon Credit Certificates at 2x average market price. ASCI: persuasive rulings. |
| **Key gap / asymmetry** | EU lacks a specific provision requiring disclosure of the time period within which offsets will materialise (contrast India's ASCI two-year rule). Green Claims Directive has been withdrawn, leaving ECGT as the primary operative instrument for product-level claims. | India lacks specific offset-type and quality disclosure requirements. Voluntary carbon market remains unregulated. CCTS trading commences in 2026 and regulatory maturity still developing. |

## 6. Analysis of Regulatory Measures

Based on the cases and reports discussed above, some of the main concerns relating to greenwashing through carbon offsetting have been identified. This section

critically examines the applicability and effectiveness of the regulations in the EU and India to combat such concerns.

**6.1 Not clearly distinguishing reduction from offsets.** One of the primary means of misleading consumers when it comes to carbon offsetting is by not distinguishing it from the reduction of emissions related to the products or services. Entities use terms such as 'climate neutral' in such a way that it appears that the product itself is climate neutral. In this regard, the ECGT Directive prohibits claims of a product having a neutral, reduced, or positive impact on the environment based on greenhouse gas emissions offsetting. It notes that claims such as 'climate neutral', 'CO2 neutral certified', 'carbon positive', 'climate net zero', 'climate compensated', 'reduced climate impact' and 'limited CO2 footprint' imply that the product itself has no environmental impact. The directive recognises that when such a claim is intended to be met through offsetting, it will mislead consumers to believe that such neutrality status is actually being achieved by incorporating measures in the production process itself. It is, therefore, prescribed that such a claim is allowed only if they are based on the actual lifecycle impact of the product. The CSRD underlines the requirement to disclose the level and scope of greenhouse gas emissions and removals about the entity and specifically, the extent of offsets used and the sources of such offsets. The ESRS are the sustainability reporting standards prescribed under the CSRD. It requires separate disclosure of the extent and manner in which carbon credits have been used to meet emissions reduction targets. There is a specific requirement to not include carbon credits in the computation of greenhouse gas emissions reduction targets and explain how taking the support of carbon credits will not adversely affect the entity's measures to reduce its emissions.

In India, the Greenwashing Prevention Guidelines prohibit greenwashing and misleading environmental claims, with a requirement that every environmental claim specify if it pertains to the product or service or the process, whole or part. While there is no specific requirement to make entities disclose the use of carbon offsetting while making environmental claims, these requirements are wide enough for action to be taken against an entity making a claim based on carbon offsetting while incorrectly indicating a reduction in emissions at the source. ASCI guidelines require environmental claims to be supported by robust and/ or well-recognised and credible accreditations. The guidelines acknowledge the use of carbon offsets. It restricts claiming reduction by offsets if such reduction was mandated under law. The corollary to this can be that in other cases, there was no restriction per se, as long as other conditions of transparency are followed. BRSR, which are based on GRI, require disclosure of efforts to reduce emissions. Since carbon offsetting can be considered one such means, disclosure of the related details should be covered.

**6.2 Insufficient details about offsets.** The ECGT Directive, though it prohibits claims based on greenhouse gas emissions offsetting, encourages dissemination of information about carbon credit project investments if

such advertisement is not misleading and adheres to applicable laws. The CSRD and ESRS recognize the need for reporting the source and extent of carbon credits used by an entity and making such information available publicly in the way carbon credits are defined in ESRS. The entity has to disclose the GHG emission reductions or removals from climate change mitigation carbon credit projects that it is financing. If there are public

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claims of climate neutrality using carbon credits, the entity has to disclose how it intends to achieve the direct emissions reduction targets (without carbon credits). There should be a clear segregation report for the share percentage from reduction projects, removal projects, projects in the EU and adjusted under Article 6 of the Paris Agreement.

In India, there are general requirements to make true and complete disclosure about emissions reduction and to provide all relevant information supporting environmental claims, which may be interpreted as an obligation to provide complete information about the use of carbon offsetting mechanisms. However, as long as the claim being made is not misleading, no adverse action may be taken.

**6.3 Quality of offsets.** Entities also tend to mislead stakeholders by meeting climate goals using offsets that are not of good quality i.e., credits that do not stand the test of additionality, permanence, double counting, etc. CSRD and ESRS provide for disclosure requirements to detail the extent and quality of carbon credits intended to be used. In India, the CCTS procedure provides for focussing on additionality and permanence of credits generated. India, notably, is one of the highest exporters of carbon credits.

**6.4 Phantom credits and inaccurate accounting.** Overestimation and inaccurate accounting have given rise to phantom credits, that only exist on paper but do not have any actual reduction of greenhouse gases accompanying them. The CSRD emphasises the need for reliable climate-related information. In India, the detailed procedure for CCTS is establishing ambitious methodologies to ensure accuracy and due verification (Bureau of Energy Efficiency, India, 2025). The carbon offsetting projects are registered and certified by crediting programs such as CDM, Gold Standard and Verra VCS which are also responsible for the accurate accounting of credits. It is to be noted that the issue of inaccurate accounting is also within the scope of crediting programs such as CDM, the Gold Standard, Verra etc. The programs aim to identify credible projects and ensure adherence to the standards and methodologies. They also oversee that the carbon credits generated and exchanged are not overestimated. Having said that, it cannot be ignored that there have been reports suggesting that carbon credits issued by Verra were worthless. In such a dichotomy, reliance will have to be placed on the development of standards to be more stringent and achieve standardization for uniformity and comparability. Moreover, as alleged in the case of Shell Australia, if the Government itself agrees to issue higher credits irrespective of the actual emissions reduction, then it is beyond the question of integrity and transparency. For such issues to be resolved, it is essential that the involved parties should act in a credible and reliable manner.

**6.5 Speculative reductions and time frames.** Entities often do not give details of when the impact will take place. For instance, in the case of reforestation projects, it will take many years to offset the emissions. The EU's general transparency disclosures are of assistance here. India's ASCI guidelines explicitly require that clear disclosure be made if carbon offsets do not occur within the next two years, a specific provision which the EU could usefully incorporate.

In summary, the regulatory frameworks related to greenwashing in the EU and India aim to be broad enough to combat greenwashing, including through carbon offsetting. The EU regulations address the main issues of distinguishing reductions through offsetting from reduction of emissions at source and disclosing sufficient details

about the offsetting programs involved. At present, India's regulations have a broader 'disclosure with specific prohibitions' approach. This approach may work for now since India has announced energy intensity targets for obligated sectors and is in the process of operationalising its carbon market, with CCTS compliance obligations now in force and trading expected to commence in October 2026. In such circumstances, a broader dictum will enable a customised evolution of the regulations. Alongside, it will benefit India to learn from the cases and corresponding regulations in the EU and incorporate specific provisions from the beginning. The EU can also incorporate specific provisions relating to the time by which offsets will take place, like India, to give stakeholders a clearer picture.

## 7. Concluding Remarks

Based on the discussions above, it is clear that carbon offsetting is a strong contender as a source of climate finance. It is also true that this tool is sometimes used for greenwashing. While carbon offsetting has great potential, it can only be optimized through proper use, a robust market infrastructure, and the credibility of the involved parties. If carbon offsetting continues to lose credibility and integrity in its credits, the trade-offs may not work in its favour. However, this is not the end of the road, with the upcoming development of carbon markets in various parts of the world as well as the implementation of the PACM. There is hope for mobilizing finance through carbon offsetting to encourage genuine and positive climate action, rather than merely serving as a greenwashing tool.

The EU is a front-runner in the battle against climate change and greenwashing. The regulatory framework introduced by the EU emphasizes transparency and verification, prohibiting misleading claims that might lead users to believe that the specified goods or services are 'greener' than they are. The EU's outlook supports the carbon offsetting mechanism while aiming to establish stringent offset quality controls. It acknowledges that climate neutrality does not equate to being emission-free, and that offsetting emissions can be a means to mitigate environmental damage. Regulations aim to focus on reducing emissions from the life cycle and value chain of the product or service, accommodating situations where reduction at source is not feasible, thus allowing offsetting as an alternative. In cases where offsets are used, adequate disclosure must accompany the product and be included in external reporting, clearly indicating that climate neutrality has been attained through offsetting at the entity level. Therefore, if reductions from the value chain are not possible and there are sufficient, transparent and reliable disclosures, it is not deemed misleading. The dilution of certain regulations and withdrawal of directives by the EU are not encouraging signs at this juncture.

India has initiated its work towards developing a carbon market and is establishing legal boundaries for combatting greenwashing. Guidelines have been initiated but are in their nascent stages. There is a requirement to disclose necessary and complete details when environmental claims are being made and restrictions on greenwashing are broad enough to cover different forms of distortions. In the background of the notification of energy intensity targets and the development of the carbon market in India, regulations are expected to evolve and strengthen. It will be interesting to observe developments in India, which will have the opportunity to learn from the EU and other developed markets

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to have a head start. For instance, the guidelines already consider greenwashing to be wide in scope and even acknowledge the time period of offset to be an important disclosure, indicating a futuristic vision. However, in time, more specific rules may be needed regarding disclosures about offsetting and the quality of credits.

Holistically, standardization of methodologies will enable stakeholders to have a clearer and more comparable picture. In its absence, every organization will establish its own standards and claim transparency and authenticity. However, when it comes to enforcing these regulations, which will be based on national laws, issues related to consistency and completeness in implementation can be anticipated. The enforcement of regulations that deter actors from employing greenwashing techniques needs to be strengthened. It is not just important to increase the number of regulations and compliance obligations but also to ensure that the current regulations are enforced effectively.

Many cases of greenwashing, particularly involving phantom credits and inaccurate accounting, have been observed in the unregulated voluntary carbon offsetting market which may also permeate the compliance market. Currently, there is an emphasis on the need for high-quality credits, but standardized methods for ensuring them still appear to be in evolution.

In addition to the regulations, the accounting and disclosure standards for reporting followed by the entity also play a part in the way in which carbon offsetting will contribute to meeting climate targets without greenwashing. These are at present distributed and broad and may have to be refined to mitigate greenwashing risks relating to carbon offsetting. If environmental claims are not trustworthy and easy to compare, consumers cannot make preferred choices. Without reliable information, it's hard to improve environmental practices effectively.

Nevertheless, imposing various restrictions to combat greenwashing through carbon offsetting penalizes those engaged in genuine projects. Increased regulatory control and associated costs may lead to the withdrawal of offsetting initiatives. The cost of greenwashing may be borne by the host countries, typically the more vulnerable regions in the global south. The onslaught of regulations concerning greenwashing may not be well-received by the industry, which might argue that existing regulations on unfair commercial practices sufficiently address the issues of greenwashing and carbon offsetting. Resistance from the industry could delay the implementation of regulations and necessitate reconsideration. This perspective, considering the refinement of

regulations through the omnibus package, cannot be dismissed.

A note on methodology and scope is warranted. This article applies a doctrinal and comparative legal methodology, which involves the systematic analysis of legislation, case law, and regulatory guidance across two jurisdictions. This is a recognised and independently sufficient method for legal research and is not a limitation of the study. The article does not claim to be an empirical study and does not purport to measure regulatory effectiveness through enforcement data, compliance statistics, or stakeholder surveys. Quantitative outcomes such as enforcement actions taken, fines imposed, or measurable reductions in greenwashing incidents were outside the scope of the analysis. Given the rapidly evolving regulatory landscape in both jurisdictions, including the EU Omnibus simplification package (Directive (EU) 2026/470), the suspension of the Green Claims

Directive, and the commencement of CCTS compliance obligations in India, the analysis reflects the regulatory position as of the date of submission.

The regulatory bodies are working to combat greenwashing through carbon offsetting, but the area is still evolving. A balance of restrictions is needed to check greenwashing while facilitating the use of the market to mobilize climate finance. The pace at which climate change laws gain traction will make it a significant area for further observation and analysis.

Several directions for future empirical research emerge from this analysis. First, the enforcement of the ECGT Directive from 27 September 2026 will provide the first systematic data on how EU Member States apply the prohibition on offsetting-based product claims; empirical study of enforcement patterns, penalties, and corporate responses would significantly advance the field. Second, the revised CSRD/ESRS framework, with simplified ESRS expected to apply from FY2027, warrants study of corporate compliance costs and whether simplified reporting requirements in practice improve or reduce the comparability of offset-related information. Third, consumer interpretation studies examining how the average consumer understands terms such as "carbon neutral," "climate compensated," and "net zero" in different cultural and linguistic contexts would provide empirical grounding for the legal standard of the average consumer applied in the cases reviewed. Fourth, the Indian carbon market, with CCTS trading expected from October 2026 and approved offset methodologies presents an important emerging case study for examining whether a developing economy's carbon market can maintain quality and integrity standards while scaling rapidly.

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