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Green Labels, Red Flags: Comparative Legal Pathways to Environmental Legitimacy in the European Union and the People's Republic of China

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Abstract This article explores how greenwashing is regulated through environmental labelling in the European Union and the People's Republic of China. Through a comparative analysis, it contrasts the EU's ex-post model – based on substantiation and market supervision – with China's ex-ante architecture of sovereign certification, grounded in the ideological tenets of ecological civilization. The study reveals how each system embeds environmental legitimacy within distinct legal, institutional, and political logics, offering a broader reflection on the semiotics of sustainability and the governance of credibility in the global green transition.

Keywords Greenwashing. Comparative Law. People's Republic of China. Environmental claims. State-led certification.

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1 Introduction

The phenomenon of *greenwashing*, stretched between marketing rhetoric and market reality, traces its origins to the mid-1980s United States. Coined by environmentalists to critique misleading assertions made by corporations and institutions regarding the ecological implications of their conduct, the term – whose provenance is commonly attributed to biologist Jay Westerveld (Rawsthorn 2010; Gatti, Conti, Seele 2025, 3) – denotes the deliberate attempt by companies, governments, or even individuals to project a simulacrum of environmental responsibility (cf. Cherry 2014). This objective is achieved through the deployment of 'green' imagery and discourse for products, services, or the entity itself, without a corresponding and substantive ecological merit. Such practices, by creating an informational asymmetry that privileges deceptive narratives, ultimately distort market dynamics and corrode consumer trust.

At its core, greenwashing poses a regulatory puzzle because of its nature, thriving in the ambiguous space between legitimate marketing, aspirational corporate communication, and outright deception (Sobrero 2022). A green or ecological claim[1] transcends mere simple statement of fact; it constitutes a performative act designed to attribute value and influence consumer choice. How, then, can a legal system effectively discipline a phenomenon that lies at the slippery intersection of commercial language, scientific evidence, and public perception? The challenge extends beyond the mere prohibition of falsehoods to encompass the governance of credibility's very grammar, ensuring that the language of sustainability remains a meaningful tool for ecological transition rather than a devalued currency of corporate branding.

While the challenge of policing environmental claims is global, the regulatory responses it elicits are far from uniform. They reveal deep-seated divergences in legal philosophy, institutional design, and the very understanding of the relationship between the state, the market, and the production of truth. This article undertakes a comparative exploration of the legal instruments employed to combat greenwashing, juxtaposing two profoundly different regulatory models for assessing green claims: that of the European Union (EU) and that of the People's Republic of China (PRC).

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1 It. 'asserzione ecologica', cf. Genovese 2024.

In the Chinese context, greenwashing[2] has shown a worrying increase, with emblematic cases of firms labelling their products as 'green' or 'eco-friendly' without any verifiable substantiation, at times in blatant contradiction with their own actions. A paradigmatic case is the 2010 incident involving Zijin Mining, a publicly listed mining company, which promoted the slogan "we prefer clear waters and green mountains to gold and silver" (*yào jīnshān yínshān, gèng yào lǜshuǐ qīngshān* 要金山银山, 更要绿水青山), while simultaneously causing a major wastewater spill that severely impacted the Tingjiang River ecosystem, with repercussions in the Fujian and Guangdong provinces (He et al. 2011). Even multinational corporations such as Walmart have faced repeated accusations of greenwashing in China, having allegedly made unsubstantiated ecological promises for the sole purpose of constructing an image of environmental responsibility (He et al. 2011). The EU, particularly through its recent legislative reforms culminating in Directive (EU) 2024/825,[3] has consolidated a model of *ex-post* verification. In this system, green claims are, in principle, freely made by market actors, but must withstand rigorous scrutiny concerning their clarity, accuracy, and substantiation, primarily through independent, third-party certification.

Conversely, the PRC has developed a model of *ex-ante* authorization. Confronted with the proliferation of misleading claims and a chaotic landscape of public-led labels, the Chinese Party-State has engineered a vast, centralized architecture of sovereign control. Here, the right to make a "green" claim is not a default liberty but a state-conferred privilege. Legitimacy is not adjudicated *ex-post*, but granted *ex-ante* through a hierarchical system of state-sanctioned labels, managed by a complex administrative apparatus and underpinned by a now pervasive digital oversight infrastructure. In this paradigm, the law does not merely regulate the grammar of green claims; it claims the authority to write the dictionary.

This analysis will first outline the contours of the EU framework as a baseline for understanding. It will then delve into the Chinese system, not just to find direct imitation and transplants (Watson 1993), but to interrogate the endogenous political and ideological drivers that have led China to forge its unique path of state-led green claims governance. The decision to concentrate on China as the most representative context of East Asia stems from the breadth

2 In Chinese *piāolǜ* 漂绿, literally "to whitewash in green".

3 Directive (EU) 2024/825 of the European Parliament and of the Council of 28 February 2024 amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information. Hereinafter, 'ECGTD'. For analysis of the legislative process and its implications, see Bertelli 2024; De Franceschi 2023, 45 ff.; Perrillo 2023, 1603 ff.; Micklitz, Reisch 2023, 1.

and sophistication of its regulatory edifice and the availability of rich primary sources and case materials, allowing for a granular examination of a distinct legal-political response to a global phenomenon (Hu, Wang 2004). This comparative mapping aims to illuminate how the seemingly technical issue of greenwashing becomes a site for the articulation of different visions of law and the market.

2 The EU's Original UCPD-Based Framework and Its Inadequacy

Given EU's asserted role of global regulatory standard-setter (cf. Bradford 2020), its trajectory makes it an ideal counterpart to distinct models, such as the one emerging in China. Furthermore, the European Union's approach to greenwashing demonstrates a unique perspective on market regulation, rooted in a persistent, dialectical tension between the fundamental freedoms of the internal market, as stipulated in Article 114 of the Treaty on the Functioning of the European Union (TFEU), and the imperative of ensuring a high level of consumer protection. This approach signifies a progressive shift from relying on general clauses against misleading conduct to a highly specific legal framework designed to govern green claims.

The EU's initial legal framework for policing the market relied almost exclusively on the general, principles-based prohibitions of the 2005 Unfair Commercial Practices Directive,[4] without subjecting greenwashing to a *lex specialis* (cf. Minervini, Rossi Carleo 2007).

As a framework of maximum harmonization, its ambition was to provide a comprehensive safety net against all forms of misleading commercial conduct. Legally, environmental sustainability characteristics were not explicitly mentioned in its core articles on misleading actions and omissions. UCPD defined a commercial practice as misleading if it contained false information or was likely to deceive the "average consumer", causing them to take a transactional decision they would not have otherwise taken.[5] However, it was well-established through subsequent Commission guidance that deceptive green claims could indeed be captured by the UCPD's scope, provided they could distort the average consumer's economic behaviour. In this regard, the European Commission's 2016 Guidance on the implementation of the UCPD (SWD/2016/163) represented a significant interpretive step: while a non-binding instrument of soft law, it explicitly addressed green claims, defining

4 2005/29/EC, hereinafter 'UCPD'.

5 Article 6 UCPD.

greenwashing as the appropriation of environmentalist virtues for the purpose of creating a 'green' image (cf. Ottley, Valauskas 1983, 85) and providing criteria for assessing their fairness. The Guidance stipulated that such claims must be clear, specific, accurate, and unambiguous, and should not omit material information about a product's overall environmental impact. This marked the beginning of a process of normative specification, yet the core enforcement mechanism remained anchored in the general clauses of the UCPD. Misleading omissions – the failure to provide material information – were similarly proscribed.[6] Within this framework, a false or unsubstantiated eco-friendly claim was treated as just one possible instance of a broader category of market distortion, its regulation dependent on a case-by-case assessment by national authorities. Furthermore, the burden of proving the accuracy of any factual assertion, including a green claim, already rested squarely on the trader, a crucial principle enshrined in Article 12 UCPD. It is not the consumer or the public authority that must demonstrate the falsity of a green claim, but the professional who is legally obliged to provide adequate substantiation upon request. This principle is the procedural linchpin of the system, demanding that verifiable proof must precede any public claim. The practical and, at times, contentious application of this logic is compellingly illustrated by a judicial saga involving the Italian Competition Authority (AGCM) and a prominent mineral water company. The case concerned a series of 'specific and quantified environmental boasts'[4] through which the company advertised its new "eco-friendly" bottles. The AGCM deemed the claims unsubstantiated and sanctioned the company. The Regional Administrative Tribunal (TAR Lazio) initially annulled the sanction, faulting the authority for an improper reversal of the evidentiary burden (T.A.R. Lazio, I, n. 3674/2011). The final word, however, came from the highest administrative court, the *Consiglio di Stato*, which overturned the lower court's decision (Cons. Stato, VI, n. 1960/2017), clarifying that the issue was not the internal origin of the evidence, but its manifest inadequacy. The Court thus affirmed that the evidentiary burden correctly lies with the professional making the claim and that professional diligence demands that substantiation cannot be an afterthought assembled only when challenged (Pistilli 2022).

In theory, the legal tools were in place. In practice, however, this generalist model proved profoundly inadequate to stem the tide of greenwashing. Its insufficiency was not merely a matter of academic debate (cf. Micklitz 2019, 235) but was laid bare by a confluence

6 Article 7 UCPD.

of overwhelming empirical evidence and a powerful new political mandate.

The policy impetus for change emerged forcefully from the 2019 communication on the European Green Deal (COM(2019) 640 final), which stressed the need to empower consumers for the green transition. This was swiftly followed by the 2020 Circular Economy Action Plan (COM(2020) 98 final), in which the Commission explicitly announced its intention to reinforce consumer protection against greenwashing by proposing minimum requirements for sustainability labels and requiring that businesses substantiate their environmental claims. The political will for reform was fuelled by startling data from the Commission's own investigations that showed a market in a state of informational disarray. Studies and market sweeps conducted by the European Commission and the network of national Consumer Protection Cooperation authorities (CPC Network)[7] have repeatedly highlighted the pervasiveness of greenwashing. A major 2020 screening (European Commission 2020), for instance, found that in 42% of cases examining online green claims, the assertions were exaggerated, false, or deceptive and could potentially qualify as unfair commercial practices under the UCPD; of all green claims examined across the Union, a remarkable, 53% were found to be vague, misleading, or unfounded, and 40% were entirely unsubstantiated. This chaos was compounded by the structural proliferation of labels, with an estimated 230 active ecolabels and a further 100 private green energy labels operating in Europe, creating an impenetrable jungle of signs for the consumer. The failure of the existing framework to ensure that claims were reliable, comparable, and verifiable demonstrated that a principles-based, general clauses, while flexible, approach was ill-suited to discipline a market saturated with technically complex and emotionally resonant environmental messaging, providing neither sufficient legal certainty for businesses nor adequate protection for consumers, who often lack the technical knowledge to decipher complex claims.

The New Consumer Agenda of November 2020 (COM(2020) 696 final) therefore solidified the political commitment to act, formally identifying greenwashing as a key challenge and paving the way for a more direct legislative intervention.

7 On CPC Network, see Poncibò 2012, 175; Scott 2018, 466.

3 Targeted Prohibitions under the EU's Empowering Consumers for the Green Transition Directive (ECGTD)

The legislative response which reconfigured the legal terrain of greenwashing in the European Union was firstly articulated with the adoption of the Directive (EU) 2024/825.

Situated within the broader *Circular Economy Package* (Keirsbilck 2024, 205; Galli, Rainone 2025), the ECGTD's stated purpose is not only to ensure a high level of consumer protection but also to explicitly integrate environmental protection as a guiding objective, thereby contributing to the Union's green transition. Its primary method for achieving this is twofold: first, by making subtle but significant amendments to the general clauses of the UCPD, and second, far more powerfully, by inserting a raft of new, targeted prohibitions directly into the Annex I blacklist, which outlaws certain practices *per se* without the need for a case-by-case assessment of their effect on the consumer's transactional decision.

The first layer of Intervention subtly re-engineers the UCPD's general prohibitions. The non-exhaustive list of main product characteristics in relation to which a trader must not mislead, found in Article 6(1), has been explicitly amended to include 'environmental or social characteristics' and 'circularity aspects, such as durability, reparability and recyclability'. While this may appear to be a simple clarification, its legal significance is profound: it formally signals that sustainability is no longer a peripheral marketing angle but a core parameter of product competition, fully integrated into the fabric of unfair competition law (Genovese 2024, 3).

More substantially, the directive introduces a new regime within Article 6(2) UCDP to govern future environmental performance claims, effectively creating a blacklist of prohibited greenwashing practices. Assertions such as 'climate-neutral by 2030' are now presumptively misleading unless they are supported by a rigorous set of cumulative conditions: the trader must have set out 'clear, objective, publicly available and verifiable commitments' in a detailed and realistic implementation plan; this plan must contain measurable, time-bound targets and specify the allocation of resources; crucially, the plan and the trader's progress must be 'regularly verified by a third party expert' whose findings are 'made available to consumers'. While this mechanism provides a pathway for legitimate aspirational claims, its complexity and cost have raised scholarly concerns that it might inadvertently lead to 'greenhushing', where businesses, fearing the high compliance burden, refrain from communicating genuine, incremental environmental improvements (Reale 2024, 121).

The most potent Innovations of the ECGTD, however, lie In Its use of the Annex I blacklist as a tool for surgical, *per se* prohibitions. The directive adds several new entries specifically designed to outlaw

the most common forms of greenwashing. It institutes an outright ban on 'generic environmental claims' where the specification of the claim is not provided in clear and prominent terms on the same medium.[8] Vague terms like 'eco-friendly', 'green', or 'ecological' are thus prohibited, with a narrow exception for instances where the trader can prove 'recognized excellent environmental performance' relevant to the claim, such as certification under the EU Ecolabel (cf. Iraldo, Barberio 2017, 751) or an equivalent national scheme compliant with the EN ISO 14024 Type I standard.[9] The directive also bans the displaying of a 'sustainability label that is not based on a certification scheme or not established by public authorities', a measure aimed directly at the proliferation of meaningless, self-awarded logos.

This voluntary standard, which underpins the EU Ecolabel, requires that claims be based on a comprehensive life-cycle assessment and verified by an independent third-party body. The legal framework thus outsources the function of verification to a technical apparatus of expertise, transforming a self-interested marketing assertion into a verifiable statement of conformity (Bertelli 2024, 354).

Furthermore, ECGTD prohibits 'making an environmental claim about the entire product when it concerns only a certain aspect of the product', targeting, for instance, a product marketed as recycled when only its packaging is. Most significantly, the directive takes direct aim at the pervasive practice of climate-washing by blacklisting any claim 'based on the offsetting of greenhouse gas emissions, that a product has a neutral, reduced or positive impact on the environment'. This crucial prohibition forces companies to ground their climate-related claims in the actual lifecycle impact of their products and value chains, rather than on the often opaque and unreliable practice of purchasing external carbon credits.

8 Cf. *Whereas Nine and Ten*, Directive (EU) 2024/825.

9 See the technical standard EN ISO 14024:2018, *Environmental labels and declarations – Type I environmental labelling – Principles and procedures*. This standard is foundational for credible ecolabels, requiring a multi-criteria approach based on the product's entire life cycle and certification by an independent body. Within EU law, it functions as a key instrument for ensuring the reliability and comparability of environmental information, operating in synergy with mandatory legislation on unfair commercial practices (Gola 1994, 895; Redi 2020, 135).

4 The Next (Contested) Frontier: The Proposed Green Claims Directive and the Possible Shift to Ex-Ante Verification

While marking a significant tightening of the rules, the enhanced *ex-post* regime established by the ECGTD represents only one facet of the EU's evolving strategy. The unfinished and arguably more radical frontier of this regulatory project is embodied in the proposed Green Claims Directive (GCD). Conceived as a *lex specialis* intended to complement the general framework of the UCPD as amanded by the ECGTD (cf. Perillo 2023; Bordin, Bovino 2023), the GCD represents a departure from traditional consumer protection law (Keirsbilck 2024; Botti 2024, 496). Its core ambition is to pivot the entire regulatory logic from *ex-post* enforcement to a system of mandatory *ex-ante* verification and control (Jung, Dowse, 2024). The proposal's premise is that to truly empower consumers and establish a level playing field, it is not enough to punish misleading claims after they have already circulated in the market; it is necessary to 'nip the dissemination of misleading information […] in the bud' before it can reach the consumer (Jung, Dowse 2024, 13-14). Under this proposed regime, the freedom to make explicit environmental claims would be suspended, pending prior approval. Traders would be required to subject their claims to a comprehensive substantiation process, which must then be submitted for scrutiny to an officially accredited, independent third-party 'verifier'[10] (Tommasini 2023, 861). Only after a successful verification, resulting in the issuance of a 'certificate of conformity' with EU-wide effect (Keirsbilck 2024, 206), would the claim be granted 'market access' and permitted to circulate within the Union. This approach effectively seeks to replace the uncertainty of subsequent judicial or administrative review with the certainty of prior scientific and procedural validation, fundamentally altering the relationship between commercial speech and regulatory oversight.

Nonetheless, this proposed paradigm shift is not without significant conceptual and practical challenges, raising questions about its proportionality and potential redundancy. The most immediate concern is the immense administrative and financial burden it would place on the supply side. The obligation to substantiate every explicit claim through methodologies like Life-Cycle Assessment (LCA) and to undergo a costly third-party verification process could prove prohibitive, particularly for small and medium-sized enterprises (SMEs). The European Commission's own estimates suggest substantiation costs could range from €500 to over €54,000 per claim, a considerable expense that could stifle innovation and

10 Article 11, GCD Proposal.

competition. Stakeholders like SMEunited have voiced strong reservations, fearing that such a system would create a market where only financially strong market players can afford to make green claims, effectively silencing smaller, genuinely sustainable businesses (SMEunited, Eurochambres 2024). This could lead to the perverse outcome of greenhushing, where companies, daunted by the complexity and cost of compliance, choose not to communicate their environmental efforts at all, thereby impoverishing the market of valuable information (Reale 2024, 121).

Furthermore, the GCD's *ex-ante* model appears, in some respects, redundant with the very framework it seeks to complement. The recently adopted ECGTD has already woven the principle of third-party verification into the UCPD for the most critical types of claims. As noted, future performance claims under the amended Article 6(2)(d) already require a plan verified by a third-party expert (cf. Keirsbilck 2024, 204). The ECGTD has thus already established a robust (da Costa Machado 2025, 355) *ex-post* system where traders must have verifiable, third-party proof ready upon request for their most significant claims. The GCD's proposal to escalate this to a mandatory, universal *ex-ante* approval for *all* explicit claims represents a monumental increase in regulatory intensity and burden power (Meisterernst, Sosnitza 2023, 779). While aiming for absolute certainty, this move risks creating a burdensome and costly administrative apparatus to solve a problem that the newly strengthened UCPD may already be equipped to address, questioning the overall proportionality and necessity of the proposed directive (Euronews 2025).

5 A Conceptual Toolkit: The "Seven Sins of Greenwashing" in their Original Context

Before a coherent legal architecture can be constructed to discipline a phenomenon as protean as greenwashing, a conceptual taxonomy is required to identify and classify its diverse manifestations. While legislators, particularly in the EU, have only recently moved to codify specific prohibitions, a highly influential diagnostic tool has shaped academic and policy discourse for over a decade: the *Seven Sins of Greenwashing* framework. Developed through a series of reports by the North American environmental marketing consultancy TerraChoice between 2007 and 2010 (TerraChoice 2009; Mulch 2009), this model was not conceived as a legal standard but as a heuristic device, a practical guide to help consumers, advocates, and regulators deconstruct the rhetorical strategies underpinning deceptive environmental communication. The framework's initial aim was to move beyond a binary "true-or-false" assessment, recognizing

that greenwashing operates through a spectrum of misleading tactics (Dahl 2010, 2). Its enduring legacy lies in its capacity to provide a clear and accessible grammar for identifying these patterns of deception, so much so that it remains a foundational reference in the contemporary academic literature on the subject (Vieira de Freitas Netto et al. 2020; Bernini et al. 2023; Breuer et al. 2024, 80) and continues to be employed as an analytical tool in current research (Marrucci et al. 2025). Moreover, its influence has transcended Western literature, informing the doctrinal debate in diverse legal systems, including China, as a means to delineate the contours of greenwashing (Zheng, Li 2012, 116).

The typology articulates seven recurring modes of deception. An analysis of these sins reveals a sophisticated understanding of communicative ambiguity and strategic omission.

The first of these sins is that of the Hidden Trade-off (*yǐncáng jiāoyì*, 隐藏交易). This practice consists of emphasizing a single, narrow positive environmental attribute of a product while conveniently ignoring other, more significant negative impacts that persist throughout its life cycle. A classic example is a product advertised for its high recycled content, while its manufacturing process remains highly energy-intensive or generates hazardous by-products. This sin preys on the consumer's tendency to focus on a single, salient "green" cue, and its antidote is the principle of a holistic, life-cycle assessment (LCA), a cornerstone of modern environmental regulation. The case of Asia Pulp & Paper (APP) is often cited as a paradigmatic real-world instance (cf. Córdoba, Candón-Mena 2020, 46). The company has repeatedly engaged in sophisticated marketing campaigns highlighting its sustainable forestry policies, while simultaneously facing extensive and documented accusations from environmental organizations of contributing to large-scale deforestation and ecosystem degradation. This selective disclosure of information, focusing on positive corporate actions while obscuring negative operational impacts, is a core theme in the academic analysis of greenwashing drivers (Delmas, Burbano 2011, 65).

A second and related category of deception is the Sin of No Proof (*jǔzhèng bùzú*, 举证不足). This refers to any environmental claim that cannot be substantiated by easily accessible supporting information or a reliable third-party certification. It represents a direct exploitation of the information asymmetry between the producer, who possesses all the relevant data, and the consumer, who cannot independently verify the assertion. This 'sin' finds its direct legal counterpoint in the principle of substantiation, which is central to the EU's regulatory framework. The UCPD, in its Article 12, already established that the burden of proving the accuracy of any factual claim rests squarely on the trader. The recent legislative turn has

only reinforced this principle, making unsubstantiated claims not just a 'sin' but a presumptively unlawful practice.

The third transgression identified by the framework is the Sin of Vagueness (*móhú chénshù*, 模糊陈述). This involves the use of terms so poorly defined or broad – such as 'eco-friendly', 'all-natural', or 'green' – that their real meaning is likely to be misunderstood by the consumer (Dahl 2010, 3). For years, such terms populated the marketplace, creating an ambient fog of aspirational marketing that lacked any concrete, verifiable substance. This practice has been decisively addressed by the EU's ECGTD. The new point 4(a) of the UCPD's Annex I blacklist now explicitly prohibits 'making a generic environmental claim for which the trader is not able to demonstrate recognized excellent environmental performance relevant to the claim'. This legislative act effectively transforms what was once a diagnostic category into a *per se* offence, rendering such vague claims illegal unless substantiated by high-level, verifiable certifications such as the EU Ecolabel or equivalent schemes compliant with the rigorous EN ISO 14024 standard.

Fourth is the Sin of Irrelevance (*wúguān chénshù*, 无关陈述), which consists of making a claim that, while factually true, is unimportant or unhelpful for consumers seeking to make environmentally preferable choices. The most-cited example is the 'CFC-free' claim on aerosols, which is entirely irrelevant in jurisdictions where chlorofluorocarbons have been banned by law for decades under the Montreal Protocol. This tactic leverages consumer ignorance of the existing regulatory baseline to create a false aura of environmental distinction. Here too, the EU legislator has provided a direct legal response: point 10a of the UCPD blacklist now prohibits 'presenting requirements imposed by law on all products within the relevant product category on the Union market as a distinctive feature of the trader's offer'.

A fifth, more subtle strategy is the Sin of the Lesser of Two Evils (*bìzhòngjiùqīng*, 避重就轻). This occurs when a claim attempts to frame a product as environmentally sound based on a comparison with other products in its category, while the category as a whole has a significant environmental impact. The promotion of 'fuel-efficient' sport-utility vehicles or 'organic' tobacco falls into this pattern. Such claims are not necessarily false, but they are misleading by context, as they obscure the product's overall negative footprint and can induce a consumer to feel virtuous about an inherently impactful choice. While not subject to a *per se* ban, this practice is a clear candidate for scrutiny under the general clauses of UCPD Articles 6 and 7.

The final two sins represent the most explicit forms of deception. The Sin of Fibbing (*xūjiǎ chénshù*, 虚假陈述) involves making environmental claims that are demonstrably false, a direct violation of the general prohibition on misleading actions. The seventh and

final sin, Worshipping False Labels (*xūjiǎ biāoqiān*, 虚假标签), refers to the practice of creating labels or certifications that give the impression of a legitimate third-party endorsement when no such validation exists (e.g., a globe intertwined with leaves). This tactic is now directly prohibited by point 2(a) of the UCPD's blacklist, which outlaws the display of a sustainability label not based on a credible certification scheme. A paradigmatic case illustrating both of these final sins in the Chinese context is the widely reported 2011 Walmart "green pork" scandal (*Chinanews* 2011). Stores operated by the multinational in Chongqing were found to have mislabelled over 63,000 kilograms of conventional pork with terms such as "organic" and "green". This blatant fabrication of credentials triggered a strong institutional response, including temporary store closures, significant administrative fines, and criminal proceedings against employees, highlighting the tangible legal risks associated with such practices (Dai 2011; Liu 2011). The TerraChoice framework, therefore, proves its enduring value not only as an advocacy tool but as a sophisticated analytical lens, offering a taxonomy of deception that has both anticipated and illuminated the very practices that modern consumer protection law now seeks to regulate and eradicate.

This conceptual framework, born from market observation in the West, provides a powerful analytical grammar. Its categories, as will be shown, resonate strongly with the practices observed in the Chinese market. Indeed, Chinese legal scholars have engaged with this model as a heuristic device to clarify the definitional contours of greenwashing within their own regulatory environment (Zheng, Li 2012, 116). Equipped with this conceptual toolkit and a firm understanding of the EU's regulatory paradigm, we can now turn our attention to the People's Republic of China and its distinct approach to the governance of green claims.

6 The Chinese Approach: State-Led Certification as Normative Cornerstone

As this study will demonstrate through a diachronic analysis of Chinese regulatory evolution, a superficial glance at the system might lead to diagnose a regulatory deficit in the People's Republic. Such a conclusion, however, would be profoundly mistaken. The fundamental flaw in the Chinese system of green claims, particularly prior to its recent reforms, was not a lack of regulation, but rather its precise antithesis: a state of excessive regulatory burden, akin to the European Union's own.

This state of affairs dictates a different starting point for analysis when proceeding from the European Union's framework to that of the People's Republic of China. The two systems represent

fundamentally divergent political and legal models, even in the field of greenwashing. Where the EU has been trying to progressively refine its model of market regulation – moving from broad, *ex-post* prohibitions towards a system of mandatory substantiation within a pluralistic, market-oriented verification ecosystem – China has hard constructed a model of *ex-ante* state authorization, where the power to make a green claim is not a default freedom to be disciplined, but a privilege to be granted by the State (Zhang 2003, 27).

This approach did not emerge in a vacuum; it is a deliberate, top-down response to the aforementioned condition of regulatory excess, embedded in a unique political and legal approaches.

For years, the Chinese market was saturated by a fragmented and bewildering proliferation of eco-labels (*huánbǎo lèi biāozhì zhòngduō*, 环保类标识众多), each claiming to signify a particular ecological virtue. Labels for environmental protection, energy-saving, water-saving, circular economy, low-carbon, and organic production coexisted in a state of chaotic pluralism. This disarray was the result of a disjointed administrative architecture characterized by overlapping functionalities (*gōngnéng chóngdié*, 功能重叠), inconsistent standards (*rènzhèng biāozhǔn bùyīzhì*, 认证标准不一致), and multiple agencies, each of which developed its own standards in the absence of a coherent, top-down regulatory blueprint.[11] This inflation of signs, far from empowering consumers, paradoxically fostered systemic distrust and erected formidable 'identification barriers' (*shìbié zhàng'ài*, 识别障碍), ultimately corroding the credibility of green claims themselves.

It is against this backdrop of institutional dysfunction that the highest echelons of the Chinese state initiated a decisive unifying turn, a project of state-led rationalization rooted not in liberal market principles but in the ideological imperatives of what is termed "Ecological civilization" (*shēngtài wénmíng*, 生态文明). This concept gained significant traction in the political consolidation period following the rise of Xi Jinping (Wang 2019; Fu, Cao, Li et al. 2024, 100), becoming a central pillar of Party-State ideology.

The foundational political blueprint for this project is the *2015 General Plan for the Reform of the Ecological Civilization System* (CPC Central Committee and PRC State Council 2015). This is not a legal text in the conventional sense, but a testament to a political will to re-engineer the relationship between the Party-State, the

11 While the process of verifying certifying bodies was overseen by the CNCA (a sub-body of SAMR), the licensing and oversight of individual marks remained dispersed among various ministries, such the Ministry of Ecology and Environment (MEE), the Ministry of Agriculture and Rural Affairs (MARA), the Ministry of Housing and Urban-Rural Development (MOHURD), and the Ministry of Industry and Information Technology (MIIT).

economy, and the natural world, outlining eight interlocking pillars (*bā xiàng zhìdù*, 八项制度) that form the structure of the 'Ecological civilization', covering everything from natural resource property rights to environmental governance and performance evaluation. Its introductory section on concepts (*lǐniàn*, 理念) articulates the principles that serve as the ideological bedrock for the entire reform. The now-famous dictum that 'lucid waters and lush mountains are invaluable assets'[12] (*lǜshuǐ qīngshān jiùshì jīnshān yínshān*, 绿水青山就是金山银山) is the linchpin of Party-State's political thought. This is not mere poetic metaphor; it represents a concerted effort to resolve the perceived contradiction (*máodùn*, 矛盾) between development and protection by reframing nature itself through an economic and political lens. This logic is further illuminated by the explicit call to establish the concepts of 'natural value and natural capital' (*zìrán jiàzhí hé zìrán zīběn*, 自然价值和自然资本). Here, nature is rendered legible to the state's calculative rationality; it becomes an asset on the national balance sheet, whose degradation constitutes a quantifiable liability. This economic reframing is intertwined with a holistic conception of governance, encapsulated in the principle that 'mountains, waters, forests, farmlands, and lakes are a community of life' (*shānshuǐ líntián hú shì yīgè shēngmìng gòngtóngtǐ*, 山水林田湖是一个生命共同体, cf. People's Daily Online 2017. This axiom provides the theoretical justification for a profoundly interventionist and integrated administrative approach, even in the field of green labels. It posits that because all ecological elements are interconnected, they demand 'holistic protection, systemic restoration, and comprehensive governance' (*zhěngtǐ bǎohù, xìtǒng xiūfù, zōnghé zhìlǐ*, 整体保护、系统修复、综合治理) orchestrated by the State.[13] Within this vast ideological edifice, the call to 'establish a unified green product system'[14] (*jiànlì tǒngyī de lǜsè chǎnpǐn tǐxì* 建立统一的绿色产品体系) ceases to be an isolated consumer protection initiative and appears as a logical component of the grander strategy. The unification of green labels is not simply a market-correcting measure; it is an act of state-building, an assertion of the state's exclusive authority to define, certify, and bestow environmental legitimacy. It is a direct application of the "community of life" principle to the semiotics of the marketplace, aimed at replacing private and competing claims with a single, state-sanctioned voice. The *General Plan* is thus less

12 Sec. 2 ("Concept of Ecological Civilization System Reform"), para. 3, *2015 General Plan*: '*lǜshuǐ qīngshān jiùshì jīnshān yínshān* 绿水青山就是金山银山'.

13 Sec. 2, para. 6, *2015 General Plan*.

14 Sec. 8 ("Improving the market system for environmental governance and ecological protection"), para. 46, *2015 General Plan*: '*jiànlì tǒngyī de lǜsè chǎnpǐn tǐxì* / 建立统一的绿色产品体系'.

a legal text in the conventional sense and more a testament to an immense political will to re-engineer not only the economy and the environment, but also the very language used to describe them. The ultimate question, which only the passage of time can answer, is whether this grand blueprint for an 'ecological civilization' will result in a genuine harmony between humanity and nature, or merely a more sophisticated and pervasive administration *of* nature.

If the 2015 General Plan provided the political foundation, the *2016 State Council Opinions on Establishing a Unified Green Product Standard, Certification, and Labeling System* represented its immediate operational corollary (PRC State Council 2016). This document translates the metaphysical language of Ecological Civilization into the precise register of administrative rationalization. It explicitly reframes the issue as a core component of state strategy, linking it directly to supply-side structural reform (*gōngjǐ cè jiégòuxìng gǎigé*, 供给侧结构性改革), the international competitiveness of 'Made in China', and, most tellingly, China's 'institutional power to speak' (*zhìdùxìng huàyǔquán*, 制度性话语权) in the arena of global governance. The unification of standards is thus explicitly framed as a tool of industrial and foreign policy, designed defensively to counter foreign 'green barriers' (*lǜsè bìlěi*, 绿色壁垒) and offensively to enhance the nation's normative influence, a critical consideration given the pivotal role of State-Owned Enterprises (SOEs) in the country's innovation strategies (York, Rosa, Dietz 2009, 134; Zhou, Gao, Zhao 2017, 375; Wang, Jiang 2021).

The core of this blueprint is a mandate for radical simplification, encapsulated by the "Four Unifications": a Unified Directory (*tǒngyī mùlù*, 统一目录), Unified Standards (*tǒngyī biāozhǔn*, 统一标准), Unified Evaluation (*tǒngyī píngjià*, 统一评价), and a Unified Label (*tǒngyī biāozhì*, 统一标识). This ambition is further crystallized into the "Five-in-One" objective: for 'one category of product, there is one standard, one list, one certification, and one label'. This reveals a faith in the capacity of centralized administrative design to impose order and legibility upon the market. While the document deploys market-oriented rhetoric (*shìchǎnghuà de gǎigé fāngxiàng*, 市场化的改革方向), stressing the need to stimulate the 'endogenous dynamics' (*nèishēng dònglì*, 内生动力) of the market,[15] the institutional architecture it describes is one of total state orchestration. The market here is not a spontaneous order to be regulated, but an arena to be meticulously constructed, populated, and policed by the State. The central nervous system of this engineered market is the "inter-departmental coordination mechanism" (*bùjì xiétiáo jīzhì*, 部际协调机制), a high-level body designed to ensure policy coherence

15 Paragraph 1, point 2, PRC State Council 2016. See Pan 2022.

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across a vast swathe of the Chinese bureaucracy. Furthermore, the instruments of enforcement and trust-building are quintessentially state-centric, relying on the creation of credit systems and, most notably, a blacklist system (*hēimíngdān zhìdù*, 黑名单制度) for non-compliant actors. Trust, in this model, is not an emergent property of market interactions but a commodity conferred, and withdrawn, by the administrative state through instruments like social credit and blacklisting systems (Marcatajo 2023, 1693). It appears that the Chinese model is not an imitation or adaptation of Western regulatory frameworks; rather, it is an endogenous creation, rejecting the EU's liberal, market-led pluralism in favour of a system where normative credibility is an artifact of centralized political will, and domestic order-building is a steppingstone to projecting global influence.

7 Governing the Green Label: From Certification to Sovereign Signification

To grasp the practical application of the state-authorising system outlined in the preceding section, one must consider its archetypal and most enduring manifestation: the regulatory framework established around the "Green Food" (*lǜsè shípǐn*, 绿色食品) certification mark.

This system offers an illustration of how, in China, environmental legitimacy is not policed ex-post but conferred ex-ante through a vast and intricate apparatus of state-led certification and preventative control. The absence of a normative definition for a "green trademark" within the Trademark Law of the People's Republic of China – a law that underwent substantive revisions in 2013 and 2019 – is itself indicative, revealing a broader regulatory hesitation in addressing ecological implications of green branding. In practice, trademarks that the public associates with ecological responsibility are certification marks, of which the "Green Food" logo is the progenitor.

The Green Food system's origins trace back to the 1992 Notice on the Lawful Use of "Green Food" Trademark, a regulation adopted by the State Administration for Industry and Commerce (SAIC) and the Ministry of Agriculture.[16] The document defined "green food" as an agricultural product free from pollution and harmful substances, embedding the concept within China's broader strategy for promoting ecological agriculture and modernising food production.[17] The introduction and dissemination of these standards were framed

16 Hereinafter also '*1992 Notice*'. Abrogated by the *Decision of the State Administration for Industry and Commerce on the Repeal of the Second Batch of Regulations and Normative Documents Related to Industry and Commerce* (2004.08.31).

17 First Paragraph, *Notice on the Lawful Use of "Green Food" Trademark 1992*.

not merely as technical measures but as instruments to enhance environmental awareness and protect public health, in perfect alignment with the developmental ambitions of Deng Xiaoping's Four Modernizations (MacFarquhar 1987, 20; Moak, Lee 2015, 91; Jiang, Lu, Zhang 2020, 57).

The diachronic evolution from this initial Notice to the modern *2022 Measures for the Administration of the Green Food Logo* showcases the deepening of this unique regulatory philosophy. This evolution stands in stark contrast to the EU's trajectory. While the EU has moved to create stricter rules for a pluralistic market of claims, China has spent decades refining and formalizing its centralized control over a single, state-defined category of greenness. The *2022 Measures* define *lǜsè shípǐn* as a precise legal category enshrined in primary instruments like the Agriculture Law and the Food Safety Law.[18] It signifies a 'safe, high-quality edible agricultural product' originating from a superior ecological environment, produced according to specific state-mandated standards, and subject to a quality control regime covering the entire production chain.[19] Consequently, the 'Green Food' logo is not a self-proclaimed virtue by a market actor but a legally protected certification trademark (*zhèngmíng shāngbiāo*, 证明商标);[20] it is a seal of conformity conferred by the state, which acts as the ultimate guarantor of its credibility.

The institutional architecture designed to administer this system is, unsurprisingly, hierarchical and centralized. At the apex sits the China Green Food Development Center, the national body vested with the exclusive authority to review applications and grant the right to use the logo.[21] This central body is supported by provincial-level agencies that serve as its operative arms, responsible for initial application processing (cf. Wang, Li 2008; Li, Zhao 2009; Ren, An, Duo 2011). The path to obtaining this state-conferred legitimacy is a procedurally intricate, multi-stage process. The applicant – the production unit – must not only demonstrate that its products and production sites comply with predefined standards but must also prove its own operational capacity.[22] This includes possessing a robust quality assurance system, adequate technical personnel, a stable production base, and, notably, a clean record with no quality or safety incidents for the preceding three years. The process itself involves a capillary system of checks and balances: a formal application review, an on-site inspection by qualified personnel, and

18 Article 1, *Green Food Mark Management Measures 2022 Amendment*.
19 Article 2, *Green Food Mark Management Measures 2022 Amendment*.
20 Article 3, *Green Food Mark Management Measures 2022 Amendment*.
21 Article 5, *Green Food Mark Management Measures 2022 Amendment*.
22 Article 9, *Green Food Mark Management Measures 2022 Amendment*.

finally, laboratory testing of both the product and its surrounding environment by a state-designated agency. Only upon successfully navigating this gantlet may the central authority, guided by an expert committee, grant the certification.

This state-conferred legitimacy is, however, impermanent. The three-year validity of the certificate,[23] coupled with a mandatory and equally rigorous renewal process, transforms the certification from a one-time achievement into a form of probationary status. It suggests a philosophy of continuous scrutiny, where the right to bear the 'green' label is never definitively acquired but must be perpetually re-earned under the watchful eye of the administration. This logic is reinforced by a stringent disciplinary regime of annual checks and potential sanctions,[24] including the revocation of usage rights for non-compliance. In serious cases, such as obtaining the right through deceit or bribery, the sanction can be a permanent ban from the system. Moreover, any entity or individual who reproduces or uses the "Green Food" mark without permission, or who sells counterfeit products bearing the mark, is deemed to have infringed trademark rights or engaged in fraudulent use of certification. Such violations are prosecutable by the administrative and judicial authorities in accordance with the Trademark Law. This entire framework – from prior authorization to continuous supervision and the threat of revocation – perfectly embodies the shift from market policing to sovereign gatekeeping, making the correspondence between the declared claim and reality an outcome of administrative discipline rather than a matter for *ex-post* judicial dispute.

A paradigmatic illustration of the institutional response to greenwashing practices within the Chinese trademark system is offered by a case reported in April 2025 among the "Top Ten Intellectual Property Protection Cases" jointly released by the courts of Chongqing and Chengdu. The matter, classified under administrative trademark supervision and so listed, concerns the unlawful use of the *Green Food symbol* by an agricultural cooperative in Shaanxi province, and the ensuing intervention by the People's Procuratorate of Qindu District (*Green Food "Shuimitao" Case, Shaanxi Procuratorate 2025*).

Originally registered in 1996 as a certification trademark under the jurisdiction of the State Administration for Industry and Commerce, the "Green Food" mark was administered by the established China Green Food Development Centre, established under the supervision of the Ministry of Agriculture by a 1993 regulation (*Green Food Mark Management Measures* 1993). In this case, a local agricultural

23 Article 10, *Green Food Mark Management Measures 2022 Amendment*.

24 Articles 11-13, *Green Food Mark Management Measures 2022 Amendment*.

cooperative had obtained a valid *Green Food Certificate* for its *shuimitao* (juicy peach) products in December 2020, with a usage term expiring in December 2023. However, the cooperative continued to display the mark on its packaging and promotional materials beyond the expiration date, despite having failed to renew the licence. The omission stemmed from the cooperative's non-payment of the necessary renewal fees, which in turn precluded the required inspections and compliance verifications by the relevant authorities.

Upon discovery of the infringement in September 2024 – during a field survey on agricultural intellectual property – the Qindu District Procuratorate initiated a supervisory inquiry. Having established the cooperative's unauthorised use of the mark, the procuratorate issued a formal prosecutorial recommendation to the district agricultural bureau, urging it to fulfil its supervisory obligations, reinforce its inspection mechanisms, and promote lawful use of the certification system. The authorities responded by ordering the cooperative to resubmit its renewal application and by launching a district-wide audit of green food mark usage. In addition, financial support in the amount of 500,000 yuan was allocated across seven local agricultural entities, including the one involved in the case, in order to alleviate financial hardship and enhance compliance capacity.

The *Shuimitao* case reflects the increasing institutional sensitivity in China toward the overextension or misuse of green credentials, particularly in rural economic development schemes tied to the Rural Revitalisation Strategy (*xiāngcūn zhènxīng*, 乡村振兴) (Huang 2018; Tang, Han 2023, 149). It underscores the symbolic and economic significance now attached to the "Green Food" mark, which functions not only as a sign of environmental compatibility, but as a strategic asset in the branding of regional agricultural excellence. This case highlights not only the fragility of trademark integrity in the agri-food sector, but also the evolving role of procuratorial supervision (*jiǎnchá jiànyì*, 检察建议) as a governance instrument in environmental labelling enforcement. Through the lens of this case, it becomes evident the convergence of intellectual property enforcement, food safety governance, and rural economic policy. This convergence underscores the complexity of maintaining normative credibility in the era of green marketing.

This logic of centralized control, perfected over decades in the agri-food sector, was generalized and elevated to the cornerstone of China's entire green product strategy with the adoption of the *2019 Measures for the Administration of the Use of Green Product Labels*, issued by the State Administration for Market Regulation (SAMR). It is here that abstract ambition is rendered into the concrete articles of a regulatory regime, creating the normative architecture of a sovereign gatekeeper. The Measures establish SAMR as the sole proprietor and administrator of environmental legitimacy, stating in

Article 2 that the agency shall "uniformly release the green product label, build and manage the green product label information platform [...] and implement supervision and management over the use of the green product label". More revealing, however, is the sophisticated, two-tiered structure of legitimacy established in Article 3. The system distinguishes between "Certification Activity One" (*rènzhèng huódòng yī*, 认证活动一), which applies to the exclusive list of products in the national unified green product certification catalog, and "Certification Activity Two" (*rènzhèng huódòng èr*, 认证活动二), which covers other state-endorsed green attributes such as energy-saving or organic. This is not a simple, monolithic system; it is a carefully calibrated hierarchy. Activity One represents the pinnacle of state-sanctioned greenness, while Activity Two functions as a flexible mechanism for the state to gradually absorb the multitude of other existing eco-labels into its unified orbit. Beneath SAMR's sovereign authority operate the third-party certification bodies (cf. Gao 2015, 167-68). These entities are best understood not as independent market actors but as carefully circumscribed intermediaries within this regulatory fiefdom. Although operating independently, they must first receive approval from the competent state authority. Their role is thus one of transmission, channelling the state's centralized authority downwards into the capillaries of the market (Cf. Guo 2009, 138).

The technological infrastructure mandated by these Measures is, perhaps, the most potent instrument of this *ex-ante* control. The Green Product Information Platform (*Lǜsè Chǎnpǐn Biāozhì Xìnxī Píngtái*, 绿色产品标识信息平台), as detailed in Articles 7 and 9, constitutes the digital heart of this regulatory infrastructure. A certification is not truly complete, and the right to use the label is not perfected, until the approved certification body has uploaded all relevant data to this central state-run platform. It is only then that the system generates a unique QR code, which the enterprise may affix to its product. This transforms the static label on a package into a dynamic portal for real-time verification and continuous digital oversight. The claim of greenness is thus perpetually tethered to a live, state-controlled database, subject to constant scrutiny by consumers, supply chain actors, and the administration itself.

8 The Limits of Enforcement and the Judicial Response

While the Chinese state has constructed a top-down architecture for the administration of environmental legitimacy, its coherence and efficacy are ultimately tested in the crucible of judicial enforcement, as anticipated by the *Shuimitao* case. It is here, in the micro-level realities of private litigation, that the tensions between the state's macro-level regulatory ambitions and the complexities of individual

disputes become manifest. An examination of recent case law reveals a distinct judicial pragmatism that often prioritizes commercial order and social harmony over the strict, formal enforcement of rights, thereby reinforcing the primacy of administrative supervision and revealing the practical limits of private action in policing the market for greenwashing.

A more subtle, yet perhaps more pervasive, threat to the integrity of green claims emerges not from a direct misrepresentation by a major corporation, but from the cumulative effect of micro-level trademark infringements that dilute a brand's carefully constructed 'green' credentials. A recent first-instance judgment from the People's Court of Weiyang District, Xi'an (*Weiyang District Court Judgment 2024 no. 583*), offers an illustration of this dynamic and of the practical limitations of the normative architecture designed to protect intellectual property. The case involved a well-known chemical company, which had invested significantly in developing a "green and environmentally friendly" cleaning agent that had earned a "China Environmental Label" certification (Zhao, Xia 1999, 480; Zhong 2011). The company held a valid trademark for its product, 手榴弹 (*shǒuliúdàn*, or "hand grenade"). The dispute arose when a small, sole-proprietorship retailer was found to be selling a lower-quality cleaning product with a pungent odour under the name "首榴弹" (*shǒuliúdàn*, a homophone meaning "first grenade"). The court's reasoning on the matter of infringement was straightforward and methodologically sound. It correctly identified that the infringing mark was phonetically identical and semantically similar to the plaintiff's registered trademark, and was used on the same class of goods, thereby creating a high likelihood of consumer confusion (*róngyì dǎozhì hùnxiáo*). The infringement was proven, and an injunction was duly granted against the small retailer.

It is the remedy, however, that invites a more critical reflection. Despite the plaintiff's claims of significant investment in its certified 'green' product and the reputational harm caused by the low-quality knockoff, the court awarded damages of a mere 3,000 yuan. This sum was calculated using judicial discretion, as the plaintiff could not prove actual losses, and was intended primarily to cover reasonable costs. This judicial pragmatism, while understandable, reveals a structural weakness. The almost symbolic nature of the damages fails to create a meaningful deterrent and raises serious questions about the economic viability of enforcing intellectual property rights against a constellation of minor infringers. This outcome stands in stark contrast to the dual-track enforcement model of the European Union. In the EU, while private litigation over damages faces similar challenges, the system is powerfully complemented by public enforcement (da Costa Machado 2025). National competition and consumer authorities can impose fines for misleading practices

that harm the market, creating a credible threat that discourages the very kind of brand dilution seen in the *shǒuliúdàn* case. The Chinese approach, in this instance, results in a pyrrhic victory for the holder of a 'green' brand, whose reputational and commercial value, certified at great cost by the State's own apparatus, is eroded one small, inadequately sanctioned infringement at a time.

This tension between formal rights and practical enforcement is cast in even sharper relief when the legal action shifts to the highly contentious arena of consumer protection and punitive damages. A particularly revealing civil judgment from the People's Court of Lingbi County, Anhui (*Liang v. Liu*, 2022), illuminates the profound judicial scepticism directed at a specific category of litigant: the so-called "commercial fraud bounty hunter" (*zhíyè dǎjiārén*, 职业打假人) (Zhang 2023). This figure, who strategically purchases goods with the sole intention of suing for statutory penalties, represents an internal challenge to a Chinese judiciary struggling to reconcile the legislative goal of consumer empowerment with what it often perceives as an abuse of rights motivated by profit.

In a dense and effective synthesis of judicial manoeuvring, the *Liang* case saw the court neutralize what appeared to be a straightforward claim. The plaintiff alleged that a seller's royal jelly was a "three-no product" (*sān wú chǎnpǐn*, 三无产品) and, crucially, was falsely advertised as a green food without the requisite certification, a clear instance of greenwashing. Citing the Food Safety Law, he sought punitive damages of ten times the purchase price, a remedy explicitly provided for in Article 148 of the Food Safety Law (Yuan 2023, 11). The court, however, pivoted away from the product's non-compliance. It focused instead on the plaintiff's status as a *zhíyè dǎjiārén*, deeming his strategic purchase a violation of the foundational principle of good faith (*chéngshí xìnyòng*, 诚实信用) (cf. Leonhard 2009, 305; Novaretti 2010, 946; Khosravi 2024, 112). It then reclassified the product as a 'primary agricultural product' (*chūjí nóngchǎnpǐn*, 初级农产品), exempting it from the strictest labelling rules and reducing the false green claim to a mere "formal defect" (*xiácī*, 瑕疵) incapable of triggering punitive damages. The judgment is paradigmatic: it showcases a judiciary prepared to mobilize general principles to override specific consumer protection statutes, revealing a deep-seated institutional resistance to the private enforcement model that contrasts sharply with the EU's legislative efforts to empower consumers and their associations as active market police.

9 From the "Green Principle" to Public Order: The Dormant Potential of the Civil Code?

Having examined the Party-State's administrative architecture and the circumscribed nature of judicial enforcement in specific statutory contexts, the analysis must now turn to a final, crucial question: does the foundational text of Chinese private law, the Civil Code (Timoteo 2022), offer an alternative, more general pathway for combating greenwashing? The answer requires an inquiry into one of the Code's most lauded innovations, the so-called "Green Principle", and a critical assessment of its practical import, revealing a deep chasm between normative potential and judicial reality.

The PRC Civil Code (2021), which entered into force on January 1, 2021, is more than a mere codification; it is a framework of values intended to guide civil society (Timoteo 2018; Timoteo 2019).

In its Article 9, The PRC Civil Code establishes the so-called "Green Principle" (绿色原则), mandating that all civil actors must 'engage in civil activities in a way that is conducive to conserving resources and protecting the ecological environment'. This provision could represent a remarkable innovation, theoretically infusing the entirety of private law with an ecological ethos, setting the Chinese legal system apart from many Western jurisdictions where such environmental obligations typically reside within the domain of constitutional law.[25] Theoretically, Article 9 possesses immense potential as a tool against greenwashing. It could function as an interpretive guide for other statutes, a declaratory norm of conduct, and, most powerfully, as a subsidiary source of liability (Szpotakowski 2020, 233; Ouyang 2023). A consumer misled by a false environmental claim, or a competitor harmed by such a practice, could plausibly argue that the dissemination of deceptive 'green' information is a civil activity that is manifestly *not* conducive to protecting the ecological environment, as it incentivizes unsustainable consumption and distorts the market for genuinely green products. In this reading, Article 9 could ground a private cause of action for breach of a general civil duty, entirely independent of specific consumer protection or trademark laws.

This dormancy, however, is not necessarily the result of an inherent weakness or a conflict with other principles. Rather, it appears to be a consequence of the Chinese legal system's structural deference to administrative *lex specialis*. In a field like environmental claims, where the state has invested immense capital in creating a comprehensive and detailed administrative regime for certification and supervision,

25 E.g. see the heated debate on the environmental reform of the Italian Constitution, fueled, among others, by Mattei 2022; Amendola 2022; Bifulco 2022; Cecchetti 2022.

the judiciary shows a clear preference for the certainty of these specific rules. The granular requirements of the "Green Food" or "China Green Product Label" systems provide a more predictable and manageable basis for adjudication than the abstract and broad Green Principle. The courts' reluctance to activate Article 9 in this context can thus be read as a form of comity towards the administrative apparatus, which is seen as the primary and legitimate locus for defining and policing greenness.

This judicial posture of restraint, however, is not absolute across all general principles. The potent and decisive application of the principle of Public Order and Good Morals (*gōngxù liángsú*, 公序良俗), enshrined in Articles 8 and 153 of the Civil Code, offers a stark contrast. The case of *Guangdong Shanhai Da Data Storage Co., Ltd. v. Shanhai Da Data Storage Group Co., Ltd. (2023)* is paradigmatic.[26] Here, the Guangzhou Intermediate People's Court was faced with a sales contract for cryptocurrency "mining machines". While the lower court treated it as a standard commercial dispute and upheld the contract, the appellate court took a radically different approach. It looked beyond the contract's form to its substance, identifying its core purpose as facilitating cryptocurrency "mining" (*wākuàng*, 挖矿), an activity explicitly targeted by a series of high-level state policy documents as detrimental to national financial stability and carbon neutrality goals. On this basis, the court made a decisive move: it declared the contract entirely void for violating public order and good morals (*wéibèi gōngxù liángsú*, 违背公序良俗), overturning the lower court's judgment, without mentioning also the Green Principle.

The *Guangdong Shanhai Da* case demonstrates that Chinese courts are not only willing but also capable of using broad, general principles to intervene forcefully in private contracts. However, they do so when the subject matter of the contract directly contravenes a fundamental state policy directive. The judicial activation of a general clause appears to be contingent on the hierarchical importance of the public interest at stake. The fight against unregulated virtual currencies is framed as a matter of national economic security and core environmental strategy, justifying the use of the powerful "public order" tool to align private law with state objectives. By contrast, the policing of individual greenwashing claims in the consumer market, while a regulatory priority, is treated as a matter best managed by the specific, pre-existing administrative regime, thus revealing a clear division of labour and a hierarchy of norms: the judiciary deploys the principle of public order to safeguard fundamental state interests, while showing deference to the administrative *lex specialis* for the governance of more routine, albeit complex, market conduct.

26 Confirmed by (2024) Yue Min Shen No. 8221.

10 Conclusion

The journey through EU and PRC's regulatory landscapes has revealed more than mere divergences in legal techniques for combating greenwashing. While both global powers converge on the strategic necessity of disciplining environmental claims to foster a sustainable economy, they diverge radically in the juridical form and institutional ethos through which such claims are rendered operable, contestable, and legitimate. The comparison unveils not merely two different sets of rules, but two distinct worlds of green legitimacy, one founded on the principle of market regulation and the other on the logic of sovereign authorization.

At the normative heart of the European Union's model lies a commitment to a pluralistic, *ex-post* system of control, albeit one that has become progressively more stringent. The evolution from the general clauses of the UCPD to the targeted, *per se* prohibitions of the ECGTD demonstrates a move toward greater regulatory precision, but within a consistent legal framework based on autonomous economic actors, transparency (Cesaro 2024; Regazzoni 2025), fairness. In the EU, the state sets the rules of the game but does not, as a rule, monopolize the role of certifier. Legitimacy is constructed through a decentralized ecosystem of public and private actors. The emphasis on third-party independent verification, particularly through standards like EN ISO 14024, functions as a juridical mechanism of decontamination (Tommasini 2023, 861). As has been observed, by outsourcing the evaluation of sustainability assertions to a neutral body, the certification process strips the green claim of its unilateral, self-interested character, transforming it into a verifiable statement of conformity (Bertelli 2024, 354). The EU system, therefore, presupposes an economic actor whose truthfulness can and must be assessed (Reale 2024, 124), policed through a combination of public enforcement and empowered consumers' action.

By contrast, the Chinese model is rooted in a logic of *ex-ante* authorization that resists this liberal grammar: its architecture does not seem to be a legal transplant of Western models but an endogenous creation, born from the still-evolving political philosophy of Ecological civilization and designed to remedy a specific domestic pathology of regulatory hypertrophy. The law here does not primarily adjudicate the truthfulness of claims; rather, it constitutes the very possibility of making a legitimate claim. To declare a product or a service green is not an instance of entrepreneurial expression but an administrative utterance contingent upon a revocable license from the state. The Chinese green labelling system, therefore, is tethered to a logic of sovereign permission, wherein the field of sustainability is enclosed within a state-curated regime of controlled signification.

Yet, herein lies a paradox common to both systems: the very instruments designed to render sustainability claims intelligible and trustworthy – certifications, labels, seals of approval – risk undermining their own efficacy through proliferation and misuse. In China, as we have seen, it was the chaotic multiplication of state-sanctioned labels that precipitated the top-down unification project. In the EU, a similar risk now looms from a different source: market fragmentation. The unchecked expansion of private third-party certifiers, each operating under potentially divergent methodologies, could produce redundancies and erode consumer trust, transforming the market into a 'jungle where the consumer can no longer distinguish between performative illusion and verified compliance' (Spedicato 2024, 60). This shared challenge, approached from opposite ends of the state-market spectrum, underscores the universal difficulty of maintaining semiotic credibility (cf. Lunghi 2023; Antelmi 2024) in the quest for greening economic structures.

Thus, the divergence between Brussels and Beijing offers a profound lesson in comparative law. It demonstrates how a similar problem – greenwashing – can generate radically different legal solutions when filtered through different political cultures, institutional capacities, and legal philosophies. As China continues to consolidate its state-led model and the EU contemplates an even more interventionist turn with its proposed Green Claims Directive – a move that would push it further towards an *ex-ante* logic – the global landscape of environmental regulation will continue to be shaped by their distinct and competing visions. The ongoing global effort to align commercial speech with ecological reality is thus being forged not on a single path, but on several ones, each reflecting a different conception of the relationship between the market, the state, and the environment itself.[27]

27 Across jurisdictions, regulatory responses vary in form but converge in their core concerns. The UK's *Green Claims Code* (2021) provides a principles-based checklist grounded in transparency and lifecycle thinking. France, through its *Loi Climat et Résilience* (2021), has opted for a punitive deterrence model, imposing fines of up to 80% of an advertising campaign's cost for misleading environmental claims. Spain, with its self-regulatory *Código de autorregulación sobre argumentos ambientales* (2009), emphasizes objectivity and factual accuracy. The United States' *FTC Green Guides* offer detailed prescriptive guidance, while countries like Australia and New Zealand have developed their own enforcement priorities, creating a rich mosaic of global regulatory practice.

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