

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

AMANDEEP GYANI, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

LULULEMON ATHLETICA INC. and  
LULULEMON USA INC.,

Defendants.

Case No.

**CLASS ACTION**

**JURY TRIAL DEMANDED**

**CLASS ACTION COMPLAINT**

Plaintiff Amandeep Gyani (“Plaintiff”), individually and on behalf of all others similarly situated, brings this putative class action against Defendants Lululemon Athletica Inc. and Lululemon USA Inc. (collectively, “Lululemon” or “Defendants”) and, based upon personal knowledge as to Plaintiff and Plaintiff’s own acts and experiences, and upon information and belief through the investigation of Plaintiff’s counsel as to all other matters, alleges as follows:

**NATURE OF THE ACTION**

1. This putative consumer class action seeks to end a marketing campaign that goes too far by creating the general, express, and implied impression in consumers’ minds that the Defendant’s business practices, actions, and products positively contribute to the environment and a healthier planet when, in reality, they are causing significant damage to the environment, which is only on track to get worse.

2. Lululemon is one of the world’s largest and most popular “athleisure” fashion brands. Lululemon has publicly recognized that “[c]onsumers, particularly millennial and Gen Z

consumers, are more likely to align themselves with brands who they *trust to make decisions* that reflect their values and *benefit people and the planet.*”<sup>1</sup>

3. Lululemon has taken advantage of such consumers and their trust through a massive, global “greenwashing” campaign.

4. To attract consumers who are becoming increasingly concerned with the planet’s environmental crisis, and to convince them to pay the exorbitant premiums that Lululemon charges for its products, Lululemon rolled out its Be Planet “greenwashing” campaign for purpose of misleading consumers to believe that Lululemon’s business practices, products, and actions are sustainable and have a positive impact on the environment.

5. In October 2020, Lululemon announced its “Be Planet” marketing campaign, which detailed Lululemon’s promises and express representations to “become a *more sustainable and equitable* business, *minimize its environmental impact*, and *accelerate positive change....*”<sup>2</sup> The Be Planet campaign included the following commitments by Lululemon:

- 100% of the Company’s products will include sustainable materials and end-of use solutions by 2030;
- Ensure at least 75% of its products contain sustainable materials by 2025;
- Offer guests new options to extend the life of its products by providing resell, repair, and/or recycle options by 2025;
- Source 100% renewable electricity to power the Company’s operations by 2021 and reduce carbon emissions across its global supply chain by 60% per unit of value added, meeting its Science-based Targets by 2030; and

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<sup>1</sup> Lululemon Athletica Inc., “2023 Carbon Disclosure Project Report” (2023) at 7 (“2023 Carbon Disclosure Project Report”), *available at* <https://corporate.lululemon.com/~media/Files/L/Lululemon/our-impact/reporting-and-disclosure/lululemon-cdp-cc-2023.pdf> (last visited Jul. 12, 2024) (emphasis added).

<sup>2</sup> lululemon athletica Inc. Releases Impact Agenda, Unveiling its Social and Environmental Goals and Strategies to Create a Healthier Future, Oct. 28, 2020) (“Impact Agenda”), *available at* <https://corporate.lululemon.com/media/press-releases/2020/10-28-2020-085826103> (last visited Jul. 12, 2024) (emphasis added).

- Reduce its freshwater use intensity by 50% to manufacture its products and reduce single-use plastic packaging by 50% by 2025.

6. Calvin McDonald, Chief Executive Officer of Lululemon, stated that, these are “more than a set of commitments. It’s a holistic approach that *reflects who we are*[.]”<sup>3</sup>

7. Lululemon pursued its extensive Be Planet greenwashing marketing campaign through express and implied statements and images on its website, throughout its hundreds of retail stores, and elsewhere, which all build upon and perpetuate the message that the company’s actions and products are not only environmentally friendly, but that they provide at positive improvement of the environment and the restoration of a healthy planet.

8. Lululemon’s marketing campaign messages are unfair, false, deceptive, and misleading to reasonable consumers as they portray Lululemon as something it is not. The apparel industry is a major contributor to the environmental crisis, and as one of the largest apparel companies in the world, Lululemon has a significant and growing climate and environmental footprint, and its actions and products directly cause harm to the environment and the deterioration of the planet’s health – the opposite of its Be Planet promises and representations.

9. Instead of sustaining and positively improving the planet, Lululemon is increasingly causing negative impact and harm.

10. Indeed, among other harms to the Planet, Lululemon is responsible for significant greenhouse gas emissions, landfill waste, and release of microplastics into the environment. Microplastics from Lululemon’s products are polluting our oceans and inland waters; landfills in countries around the world are collecting Lululemon’s discarded, synthetic garments; fossil fuels are being used to power the factories of Lululemon’s suppliers and create their synthetic textiles;

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<sup>3</sup>. *Id.*

and the shipping of Lululemon's products around the world is adding to greenhouse gas emissions and also damaging the marine environment.

11. Critically, in the face of a global climate crisis—and contrary to its express commitments to reduce carbon emissions—***Lululemon's greenhouse gas emissions have more than doubled*** since the start of the Be Planet campaign in 2020.

12. Lululemon's marketing campaign is objectively false, deceptive, and misleading, and it violates virtually every single guideline for environmental marketing claims set forth in the Federal Trade Commission's "Green Guides," which "set forth the Federal Trade Commission's current views about environmental claims" to "help marketers avoid making environmental marketing claims that are unfair or deceptive under Section 5 of the FTC Act, 15 U.S.C. § 45," and they "provide the Commission's views on how reasonable consumers likely interpret certain claims."<sup>4</sup>

13. The seriousness of Lululemon's misleading representations is amplified by its position as a market leader of apparel sales. The breadth and influence of Lululemon's public messaging is significant, not only putting a great number of consumers at risk of being influenced, but also causing much unintended environmental damage from their purchases.

14. Notably, Canada's Competition Bureau recently opened a formal investigation into Lululemon's deceptive environmental marketing claims at issue here.

15. Plaintiff brings this action individually and on behalf of a proposed class (the "Class," defined below) of American consumers who were misled by Lululemon's false, deceptive, unfair, and misleading misrepresentations and omissions regarding the sustainability and environmental impact of its products and actions. Plaintiff, individually and on behalf of the

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<sup>4</sup> See generally 16 C.F.R. § 260 – Guides for the Use of Environmental Marketing Claims ("Green Guides"); see also § 260.1(a) & (d).

Class, seeks an injunction to end Lululemon's unlawful marketing campaign and ongoing deception of consumers. Plaintiff, individually and on behalf of the Class, also seeks an award of actual damages, prejudgment interest, reasonable attorneys' fees and costs, restitution and disgorgement of all benefits Lululemon has obtained through its unlawful conduct described herein.

### **JURISDICTION AND VENUE**

16. This Court has subject matter jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d), because (1) the amount in controversy exceeds \$5 million, exclusive of interest and costs; (2) the proposed Class includes more than 100 members; and (3) there is minimal diversity of citizenship between Plaintiff and Defendants.

17. This Court also has subject matter jurisdiction under 28 U.S.C. § 1332(a) because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and there is complete diversity of citizenship between Plaintiff and Defendants.

18. This Court has personal jurisdiction over Defendants because Defendants have sufficient minimum contacts with Florida and purposely avail themselves of the Florida markets through the promotion, marketing, distribution, and sale of their products to Florida consumers in Florida, such that this Court's exercise of personal jurisdiction over Defendants is reasonable and comports with traditional notions of fair play and substantial justice.

19. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims alleged herein occurred in this District, including the promotion, marketing, distribution, and sale of its products in this District.

## PARTIES

20. Plaintiff Amandeep Gyani is a natural person, a citizen of Florida and, at all relevant times, was a resident of Miami-Dade County, Florida. Plaintiff was exposed to the deceptive and misleading messages in Lululemon's marketing campaign and believed that Lululemon was an environmentally friendly company with a minimal environmental footprint that sold sustainably produced products, and that the company's actions and products contribute to improving the environment and the restoration of a healthy planet. Plaintiff relied on Lululemon's deceptive and misleading marketing messages in deciding to purchase its products. Plaintiff purchased Lululemon's products in reliance on its deceptive and misleading marketing messages at various times through the Class Period (defined below). Plaintiff made such purchases at Lululemon retail stores, including Lululemon's Lincoln Road location in Miami Beach, Florida.

21. Defendant Lululemon Athletica Inc. is a Delaware corporation with its principal place of business in Vancouver, British Columbia. It is the corporate parent of Defendant Lululemon USA Inc.

22. Defendant Lululemon USA Inc. is a Nevada corporation with its principal place of business in Vancouver, British Columbia. It is a corporate subsidiary of Defendant Lululemon Athletica Inc.

23. Lululemon describes itself as "a technical athletic apparel, footwear, and accessories company for yoga, running, training, and most other activities[.]" It is estimated that Lululemon is valued at over \$58 billion USD,<sup>5</sup> and in 2022, the company reported revenues of

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<sup>5</sup> Forbes, "Lululemon Athletica," Feb. 2, 2024, *available at* <https://www.forbes.com/companies/lululemon-athletica/?sh=6c7e9382238c> (last visited Jul. 12, 2024).

over \$8 billion USD.<sup>6</sup> Lululemon operates over 670 retail stores worldwide, including in Florida,<sup>7</sup> and it advertises, markets, distributes, and/or sells retail merchandise in Florida and throughout the world.

## FACTUAL ALLEGATIONS

### A. The apparel industry is a significant contributor to the planet's environmental crisis.

24. The world faces severe environmental challenges associated with climate change, biodiversity loss, pollution and waste. The United Nations has acknowledged this growing crisis:<sup>8</sup>

Today, the Earth is facing a triple planetary crisis. Climate disruption. Nature and biodiversity loss. Pollution and waste. This triple crisis is threatening the well-being and survival of millions of people around the world.

25. The most recent report of the United Nation's Intergovernmental Panel on Climate Change concludes that "[h]uman-caused climate change is already affecting many weather and climate extremes in every region across the globe" and that "[t]his has led to widespread adverse impacts on food and water security, human health and on economies and society and related losses and damages to nature and people[.]"<sup>9</sup> At the recent the 28th Conference of the Parties to the United Nations Framework Convention on Climate Change ("COP28"), United Nations Secretary General Antonio Guterres spoke to the urgency of addressing this crisis, stating, "We are in a race

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<sup>6.</sup> Lululemon, "2022 Annual Report," Jan. 29, 2023 ("2022 Annual Report"), *available at* <https://corporate.lululemon.com/~media/Files/L/Lululemon/investors/annual-reports/lululemon-2022-annual-report.pdf> (last visited Jul. 12, 2024).

<sup>7.</sup> Lululemon, "About Us," <https://corporate.Lululemon.com/about-us> (last visited Jul. 12, 2024).

<sup>8.</sup> United Nations, "Ambitious Action Key to Resolving Triple Planetary Crisis of Climate Disruption, Nature Loss, Pollution, Secretary-General Says in Message for International Mother Earth Day," Apr. 21, 2022, *available at* <https://press.un.org/en/2022/sgsm21243.doc.htm> (last visited Jul. 12, 2024).

<sup>9.</sup> IPCC, "Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change" (Core Writing Team, H. Lee and J. Romero (eds.)) (2023) at 5, *available at* [https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC\\_AR6\\_SYR\\_FullVolume.pdf](https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_FullVolume.pdf) (last visited Jul. 12, 2024).

against time...our planet is minutes to midnight for the 1.5 degree limit. And the clock keeps ticking.”<sup>10</sup>

26. Because of these on-going and ever-increasing environmental challenges, Lululemon’s greenwashing messaging is material to consumers and is important to their purchasing decisions.

27. The Organization for Economic Cooperation and Development (“OECD”) reports that the world is producing twice as much plastic as two decades ago, with the bulk ending up in landfills, incinerated, or leaking into the environment, and only 9% successfully recycled.<sup>11</sup> The World Health Organization identifies air pollution as one of the greatest environmental risks to health, with the main driver of the pollution, combustion of fossil fuels, also causing greenhouse gas emissions contributing to climate change.<sup>12</sup>

28. The apparel industry has a large global carbon and environmental footprint and is a major contributor to the environmental crisis. It is estimated that the industry is responsible for **11% of global plastic waste,<sup>13</sup> between 1.8% to 8% of the world’s greenhouse gas emissions,<sup>14</sup>**

<sup>10.</sup> United Nations Secretary General, “Secretary-General’s opening remarks at press encounter at COP28,” Dec. 11, 2023), *available at* <https://www.un.org/sg/en/content/sg/speeches/2023-12-11/secretary-generals-opening-remarks-press-encounter-cop28> (last visited Jul. 12, 2024).

<sup>11.</sup> OECD, “Plastic pollution is growing relentlessly as waste management and recycling fall short, says OECD,” Feb. 22, 2022, *available at* <https://www.oecd.org/environment/plastic-pollution-is-growing-relentlessly-as-waste-management-and-recycling-fall-short.htm> (last visited Jul. 12, 2024).

<sup>12.</sup> World Health Organization, “Air Pollution,” *available at* [https://www.who.int/westernpacific/health-topics/air-pollution#tab=tab\\_1](https://www.who.int/westernpacific/health-topics/air-pollution#tab=tab_1) (last visited Jul. 12, 2024).

<sup>13.</sup> OECD, “Plastic pollution is growing relentlessly as waste management and recycling fall short, says OECD,” *supra*.

<sup>14.</sup> Apparel Impact Institute, “Taking Stock of Progress Against the Roadmap to Net Zero,” June 2023 (“Taking Stock of Progress Against the Roadmap to Net Zero”) at 2, *available at* [https://apparelimpact.org/wp-content/uploads/2023/06/Aii\\_RoadmapReport-752.pdf](https://apparelimpact.org/wp-content/uploads/2023/06/Aii_RoadmapReport-752.pdf) (last visited Jul. 12, 2024); McKinsey & Company, “Fashion on Climate: How the fashion industry can urgently act to reduce its greenhouse gas emissions” (2020) (“Fashion on Climate”) at 5, *available at* <https://www.mckinsey.com/~media/mckinsey/industries/retail/our%20insights/fashion%20on%20climate/fashion-on-climate-full-report.pdf> (last visited Jul. 12, 2024); Quantis, “Measuring Fashion: Insights from the Environmental Impact of the Global” (2018) (“Measuring Fashion: Insights from the Environmental Impact of the Global”) at 2, *available at* [https://quantis.com/wp-content/uploads/2019/11/measuringfashion\\_globalimpactstudy\\_quantis\\_2018.pdf](https://quantis.com/wp-content/uploads/2019/11/measuringfashion_globalimpactstudy_quantis_2018.pdf) (last visited Jul. 12, 2024).



about **20% of global clean water pollution** from dyeing and finishing products,<sup>15</sup> and **35% of primary microplastics** released into the environment.<sup>16</sup>

29. The vast majority of the apparel industry's emissions are created by its value chains.<sup>17</sup> The Greenhouse Gas Protocol, a global standardized framework to measure and manage emissions from private and public operations, classifies these value chain emissions as part of "Scope 3 emissions."<sup>18</sup> Scope 3 emissions are all indirect greenhouse gas emissions (not including generation of purchased energy) that occur in the value chain of a company, including both upstream and downstream emissions. In the apparel industry, upstream emissions include emissions from an apparel company's supply chain, such as the production of raw materials, transportation, and distribution. Downstream emissions include emissions from the use and disposal of apparel products.<sup>19</sup>

30. The Apparel Impact Institute and World Resources Institute calculated that **96% of the industry's total greenhouse gas emissions are Scope 3** emissions, with 80% of those generated from upstream manufacturing, production, and raw materials.<sup>20</sup>

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15. European Parliament, "The impact of textile production and waste on the environment (infographics)" (last modified 15 November 2023), *available at* <https://www.europarl.europa.eu/news/en/headlines/society/202108STO93327/the-impact-of-textile-production-and-waste-on-the-environment-infographics> (last visited Jul. 12, 2024).

16. *Id.*

17. Apparel Impact Institute and World Resources Institute, "Roadmap to Net Zero: Delivering Science Based Targets in the Apparel Sector," November 2021 at 7, *available at* <https://files.wri.org/d8/s3fs-public/2021-11/roadmap-net-zero-delivering-science-based-targets-apparel-sector.pdf?VersionId=LxrwUSv9dHytM7zybuQgoJ8LUHBZVgM1> (last visited Jul. 12, 2024).

18. Greenhouse Gas Protocol, "FAQ" at 1, *available at* [https://ghgprotocol.org/sites/default/files/standards\\_supporting/FAQ.pdf](https://ghgprotocol.org/sites/default/files/standards_supporting/FAQ.pdf) (last visited Jul. 12, 2024). The GHG Protocol Corporate Standard classifies a company's GHG emissions into three "scopes." Scope 1 emissions are direct emissions from owned or controlled sources. Scope 2 emissions are indirect emissions from the generation of purchased energy. Scope 3 emissions are all indirect emissions (not included in scope 2) that occur in the value chain of the reporting company, including both upstream and downstream emissions.

19. World Resources Institute and Science Based Targets initiative, "Apparel and Footwear Sector: Science-Based Targets Guidance" at 4 and 25, Figure 8, *available at* [https://sciencebasedtargets.org/resources/files/SBT\\_App\\_Guide\\_final\\_0718.pdf](https://sciencebasedtargets.org/resources/files/SBT_App_Guide_final_0718.pdf) (last visited Jul. 12, 2024).

20. Apparel Impact Institute and World Resources Institute, "Roadmap to Net Zero: Delivering Science Based Targets in the Apparel Sector" (November 2021) at 7, *available at* <https://files.wri.org/d8/s3fs-public/2021->

31. Moreover, the heavy use of synthetic materials in textiles makes many apparel products impossible to recycle.<sup>21</sup> It is estimated that the world produces 92 million tons of textile waste every year, with clothing and textiles making up at least 7% of the total amount of waste in global landfill space.<sup>22</sup> Synthetic fibers are non-biodegradable and can sit in landfills for up to 200 years.<sup>23</sup>

32. Water scarcity is also a growing global problem, with an estimated 2.3 billion people living in water-stressed countries in 2018,<sup>24</sup> and the textile sector was the third largest source of water degradation and land use in 2020.<sup>25</sup> The apparel industry compounds this problem by using large amounts of fresh water throughout the production and manufacturing process.<sup>26</sup>

33. Marine freight transport of apparel products also causes significant damage to the planet's inland and ocean environments. According to the OECD:<sup>27</sup>

Shipping poses threats to the environment both on inland waterways and on the ocean. These problems come from six major sources; *routine discharges of oily bilge* and ballast water from marine shipping; *dumping of non-biodegradable solid waste* into the ocean; *accidental spills of oil, toxics* or other cargo or fuel at ports and while underway; *air emissions* from the vessels' power supplies; port and

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11/roadmap-net-zero-delivering-science-based-targets-apparel-sector.pdf?VersionId=LxrwUSv9dHytM7zybuQgoJ8LUHBZVgM1 (last visited Jul. 5, 2024).

<sup>21.</sup> Concordia Precious Plastic Project, "Microplastic Pollution and the Fast Fashion Industry" *available at* <https://www.cp3montreal.com/articles/microplastic-pollution-and-the-fast-fashion-industry> (last visited Jul. 12, 2024).

<sup>22.</sup> TheRoundup.org, "17 Most Worrying Textile Waste Statistics & Facts," (updated 11 April 2023), *available at* <https://theroundup.org/textile-waste-statistics/> (last visited Jul. 12, 2024).

<sup>23.</sup> Concordia Precious Plastic Project, "Microplastic Pollution and the Fast Fashion Industry[.]" *supra*.

<sup>24.</sup> United Nations Statistics Division, SDG 6 "Clean Water and Sanitation: Ensure availability and sustainable management of water and sanitation for all," *available at* <https://unstats.un.org/sdgs/report/2021/goal-06/#:~:text=In%202018%2C%202.3%20billion%20people,by%20over%20%20per%20cent> (last visited Jul. 12, 2024).

<sup>25.</sup> European Parliament, "The impact of textile production and waste on the environment (infographics)" (last modified 15 November 2023), *available at* <https://www.europarl.europa.eu/news/en/headlines/society/20201208STO93327/the-impact-of-textile-production-and-waste-on-the-environment-infographics> (last visited Jul. 12, 2024).

<sup>26.</sup> Lululemon, "2022 Impact Report" ("2022 Impact Report") at 66, *available at* <https://corporate.lululemon.com/~media/Files/L/Lululemon/our-impact/reporting-and-disclosure/2022-lululemon-impact-report.pdf> (last visited Jul. 12, 2024).

<sup>27.</sup> OECD, "The Environmental Effects of Freight" (1997) at 11, *available at* <https://www.oecd.org/environment/envtrade/2386636.pdf> (last visited Jul. 12, 2024).

inland *channel construction and management*; and *ecological harm* due to the *introduction of exotic species* transported on vessels.

34. To be a part of the world’s climate change solution—as Lululemon explicitly claims to be—apparel companies must make significant cuts to their absolute emissions, including emissions from their supply chains.

**B. The Green Guides: The FTC’s “greenwashing” guidance regarding “environmental claims.”**

35. “Greenwashing” is the practice of making false or misleading statements about a product, policy, or activity to make it appear more environmentally friendly than it is.

36. Recognizing the rise in “greenwashing” campaigns that could deceive consumers, like Lululemon’s Be Planet campaign at issue here, the FTC created the “Green Guides,”<sup>28</sup> which “set forth the Federal Trade Commission’s current views about environmental claims” and “help marketers avoid making environmental marketing claims that are unfair or deceptive under Section 5 of the FTC Act, 15 U.S.C. § 45.”<sup>29</sup> The Green Guides “apply to claims about the environmental attributes of a product, package, or service in connection with the marketing, offering for sale, or sale of such item or service to individuals.”<sup>30</sup> They “apply to environmental claims in labeling, advertising, promotional materials, and all other forms of marketing in any medium, whether asserted directly or by implication, through words, symbols, logos, depictions, product brand names, or any other means.”

37. Examples in the Green Guides “provide the Commission’s views on how reasonable consumers likely interpret certain claims.”<sup>31</sup> The Green Guides provide that, “Whether a particular claim is deceptive will depend on the *net impression* of the advertisement, label, or

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<sup>28.</sup> See generally 16 C.F.R. § 260 – Guides for the Use of Environmental Marketing Claims.

<sup>29.</sup> *Id.*, § 260.1(a).

<sup>30.</sup> *Id.*, § 260.1(c).

<sup>31.</sup> *Id.*, § 260.1(d).

other promotional material at issue.”<sup>32</sup> “To determine if an advertisement is deceptive, marketers must identify all express and implied claims that the advertisement reasonably conveys”<sup>33</sup> Critically, even if an “advertisement does not *expressly* claim that the product has environmental benefits,...featured images, in combination with the text, [could] convey that the product has far-reaching environmental benefits and may convey that the product has no negative environmental impact.”<sup>34</sup>

38. “Marketers must ensure that all reasonable interpretations of their claims are truthful, not misleading, and supported by a reasonable basis before they make the claims.” *Id.* “In the context of environmental marketing claims, a reasonable basis often requires competent and reliable scientific evidence.”<sup>35</sup> “Such evidence consists of tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons and are generally accepted in the profession to yield accurate and reliable results.” *Id.*

39. The Green Guides provide general principles that all environmental marketing claims should comport with in order to not be deceptive:<sup>36</sup>

- a. any “qualifications and disclosures should be clear, prominent, and understandable”;
- b. “Unless it is clear from the context, an environmental marketing claim should specify whether it refers to the product, the product’s packaging, a service, or just to a portion of the product, package, or service”;

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<sup>32.</sup> *Id.* § 260.2 (citing FTC Policy Statement Regarding Advertising Substantiation, 104 FTC 839 (1984)) (emphasis added).

<sup>33.</sup> *Id.*

<sup>34.</sup> *Id.* § 260.4(d), Example 3.

<sup>35.</sup> *Id.* § 260.2.

<sup>36.</sup> *Id.* § 260.3.

- c. “An environmental marketing claim should not overstate, directly or by implication, an environmental attribute or benefit”;
- d. “Marketers should not state or imply environmental benefits if the benefits are negligible”;
- e. “Comparative environmental marketing claims should be clear to avoid consumer confusion about the comparison”;

40. The Green Guides further provide that “*it is deceptive to misrepresent, directly or by implication, that a product, package, or service offers a general environmental benefit.*”<sup>37</sup>

The FTC explains that “[u]nqualified general environmental benefit claims are difficult to interpret and likely convey a wide range of meanings.”<sup>38</sup> “In many cases, such claims likely convey that the product, package, or service has specific and far-reaching environmental benefits and may convey that the item or service has no negative environmental impact.”<sup>39</sup> “Because it is highly unlikely that marketers can substantiate all reasonable interpretations of these claims,” the FTC warns that “marketers should not make unqualified general environmental benefit claims.”<sup>40</sup>

41. The Green Guides provide that “[m]arketers can qualify general environmental benefit claims to prevent deception about the nature of the environmental benefit being asserted” by using “clear and prominent qualifying language that limits the claim to a specific benefit or benefits.”<sup>41</sup> However, the FTC warns that “[m]arketers *should not imply that any specific benefit is significant if it is, in fact, negligible.*”<sup>42</sup> “If a qualified general claim conveys that a product is more environmentally beneficial overall because of the particular touted benefit(s), *marketers*

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37. *Id.* § 260.4(a) (emphasis added).

38. *Id.* § 260.4(b).

39. *Id.*

40. *Id.*

41. *Id.* § 260.4(c).

42. *Id.* (emphasis added).

*should analyze trade-offs resulting from the benefit(s)* to determine if they can substantiate this claim.”<sup>43</sup> However, “[e]ven if a marketer explains, and has substantiation for, the product’s specific environmental attributes, this explanation will not adequately qualify a general environmental benefit claim if the advertisement otherwise implies deceptive claims.”<sup>44</sup> “Therefore, marketers should ensure that the advertisement’s *context* does not imply deceptive environmental claims.”<sup>45</sup>

42. “Given the complexities of carbon offsets,” the Green Guides provide that “sellers should employ competent and reliable scientific and accounting methods to properly quantify claimed emission reductions and to ensure that they do not sell the same reduction more than one time.”<sup>46</sup> “It is deceptive to misrepresent, directly or by implication, that a carbon offset represents emission reductions that have already occurred or will occur in the immediate future.”<sup>47</sup>

43. Regarding recycling claims, the Green Guides provide that “[i]t is deceptive to misrepresent, directly or by implication, that a product or package is recyclable...unless it can be collected, separated, or otherwise recovered from the waste stream through an established recycling program for reuse or use in manufacturing or assembling another item.”<sup>48</sup> The Green Guides instruct that “[m]arketers should clearly and prominently qualify recyclable claims to the extent necessary to avoid deception about the availability of recycling programs and collection sites to consumers.”<sup>49</sup> “If any component significantly limits the ability to recycle the item, any recyclable claim would be deceptive.”<sup>50</sup> “An item that is made from recyclable material, but,

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43. *Id.* (emphasis added).

44. *Id.* § 260.4(d).

45. *Id.* (emphasis added).

46. *Id.* § 260.5(a).

47. *Id.* § 260.5(b).

48. *Id.* § 260.12(a).

49. *Id.* § 260.12(b).

50. *Id.* § 260.12(d).

because of its shape, size, or some other attribute, is not accepted in recycling programs, should not be marketed as recyclable.”<sup>51</sup>

44. “It is deceptive to misrepresent, directly or by implication, that a product or package is made with renewable energy or that a service uses renewable energy.”<sup>52</sup> “A marketer should not make unqualified renewable energy claims, directly or by implication, if fossil fuel, or electricity derived from fossil fuel, is used to manufacture any part of the advertised item or is used to power any part of the advertised service, unless the marketer has matched such non-renewable energy use with renewable energy certificates.”<sup>53</sup> According to the FTC, “[r]esearch suggests that reasonable consumers may interpret renewable energy claims differently than marketers may intend.”<sup>54</sup> “Unless marketers have substantiation for all their express and reasonably implied claims, they should clearly and prominently qualify their renewable energy claims.”<sup>55</sup>

45. “It is deceptive to make an unqualified ‘made with renewable energy’ claim unless *all, or virtually all, of the significant manufacturing processes involved in making the product or package* are powered with renewable energy or non-renewable energy matched by renewable energy certificates. When this is not the case, marketers should clearly and prominently specify the percentage of renewable energy that powered the significant manufacturing processes involved in making the product or package.”<sup>56</sup>

46. “It is deceptive to misrepresent, directly or by implication, that a product or package is made with renewable materials.”<sup>57</sup> “Research suggests that reasonable consumers may interpret

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51. *Id.*

52. *Id.* § 260.12(a).

53. *Id.*

54. *Id.* § 260.12(b).

55. *Id.*

56. *Id.* § 260.12(c).

57. *Id.* § 260.16(a).

renewable materials claims differently than marketers may intend.”<sup>58</sup> “Unless marketers have substantiation for all their express and reasonably implied claims, they should clearly and prominently qualify their renewable materials claims.”<sup>59</sup> “For example, marketers may minimize the risk of unintended implied claims by identifying the material used and explaining why the material is renewable.”<sup>60</sup>

47. “Marketers should also qualify any ‘made with renewable materials’ claim unless the product or package (excluding minor, incidental components) is made entirely with renewable materials.”<sup>61</sup> “It is deceptive to misrepresent, directly or by implication, that a product or package has been reduced or is lower in weight, volume, or toxicity.”<sup>62</sup> “Marketers should clearly and prominently qualify source reduction claims to the extent necessary to avoid deception about the amount of the source reduction and the basis for any comparison.”<sup>63</sup>

**C. Lululemon’s false, deceptive, and misleading “Be Planet” marketing campaign.**

48. Consumers have become increasingly concerned about the environment. They seek to avoid brands that sell products that contribute to climate change or the degradation of the planet, and they are willing to pay premium prices for products that are sustainably produced, environmentally friendly, and positively restore the Planet. In other words, these issues are not only material to consumers’ purchasing decisions, but they are a priority. Lululemon knows this and exploits it.

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<sup>58</sup>. *Id.* § 260.16(b).

<sup>59</sup>. *Id.*

<sup>60</sup>. *Id.*

<sup>61</sup>. *Id.* § 260.16(c).

<sup>62</sup>. *Id.* § 260.17.

<sup>63</sup>. *Id.*



49. In its 2023 Carbon Disclosure Project report, Lululemon notes that “Consumers, particularly millennial and Gen Z consumers, are more likely to align themselves with brands who they trust to make decisions that reflect their values and *benefit people and the planet*.”<sup>64</sup>

50. To capitalize on consumers’ desire for sustainably produced and environmentally friendly products, some companies “greenwash” their products by making deceptive and misleading representations regarding the sustainability and environmental impact of a company’s products, policies, and actions. That is exactly what Lululemon did here to induce consumers into purchasing, and paying exorbitant prices for products that are not sustainably produced and cause significant harm to the environment.

51. On October 28, 2020, Lululemon issued a press release announcing its “Impact Agenda” and “Be Planet” campaign as part of its “the Company’s long-term strategy to become a *more sustainable* and equitable business, *minimize its environmental impact*, and *accelerate positive change* both internally and externally”.<sup>65</sup>

### **lululemon athletica Inc. Releases Impact Agenda, Unveiling its Social and Environmental Goals and Strategies to Create a Healthier Future**

Oct 28, 2020

Twelve commitments detail specific actions across a range of global issues including diversity and inclusion, mental wellbeing, climate change, and circularity.

VANCOUVER, British Columbia--(BUSINESS WIRE)-- lululemon athletica inc. (NASDAQ:LULU) today released its first-ever Impact Agenda detailing the Company’s long-term strategy to become a *more sustainable and equitable* business, *minimize its environmental impact*, and *accelerate positive change* both internally and externally.

The Company’s Impact Agenda outlines its multi-year strategies to address critical social and environmental issues with 12 goals to drive progress. These include targeting areas ranging from diversity and inclusion to mental wellbeing to climate

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<sup>64.</sup> 2023 Carbon Disclosure Project Report at 7 (emphasis added), *supra*.

<sup>65.</sup> Impact Agenda (emphasis added).

change, with specific commitments to invest \$75 million USD into equitable wellbeing programs globally by 2025, expand gender pay equity to full pay equity for its employees, and ***make 100% of its products with sustainable materials and end-of-use solutions by 2030.***

“lululemon has a unique opportunity, responsibility and platform to drive meaningful change. We share our Impact strategy against the backdrop of the COVID-19 pandemic, a global climate crisis, and systemic inequities in our society,” said Calvin McDonald, Chief Executive Officer. “As a global brand, industry, and as individuals, ***we must play a part to change the world for the better.***”

McDonald continued, “Our Impact Agenda is more than a set of commitments. It’s a holistic approach that ***reflects who we are***, guided by our purpose to elevate the world by realizing the full potential within every one of us. I am grateful to everyone who has dedicated their knowledge and experience to help us define our approach.”

Building on the Company’s progress and learnings over the past two decades, lululemon’s Impact Agenda brings a new level of ambition that will guide the way the Company approaches and measures its work across all aspects of its business, organized into three interconnected areas of focus:

### **Be Human**

- **Inclusion, Diversity, Equity, and Action:** Reflect the diversity of the communities the Company serves and operates in around the world by 2025.
- **Employee Leadership Offerings:** Be the place where people come to develop and grow as leaders by 2023 including actions such as providing leading mental wellbeing training to all employees globally by 2021.
- **Employee Pay Equity:** Achieved 100% gender pay equity, and will expand to full pay equity for gender and race by 2022.
- **Supporting People Who Make Our Products:** Provide empowerment programs covering a range of issues, including human rights education, resilience and wellbeing practices to more than 100,000 workers across its supply chain by 2025.

### **Be Well**

- **Wellbeing for All:** Provide access to tools that embrace mindfulness and movement practices for more than 10 million people globally by 2025.

- **Scale Here to Be and new programs:** Invest \$75 million USD in its global and local communities by 2025 to drive impact through direct funding, partnerships, and advocacy.
- **Create a Centre of Excellence:** Establish a Centre of Excellence for social impact by 2021.

### **Be Planet**

- **Sustainable Product Innovation:** 100% of the Company's products will include sustainable materials and end-of use solutions by 2030.
- **Sustainable Materials:** Ensure at least 75% of its products contain sustainable materials by 2025.
- **Circularity:** Offer guests new options to extend the life of its products by providing resell, repair, and/or recycle options by 2025.
- **Climate Change:** Source 100% renewable electricity to power the Company's operations by 2021 and reduce carbon emissions across its global supply chain by 60% per unit of value added, meeting its Science-based Targets by 2030.
- **Water and Waste Reduction:** Reduce its freshwater use intensity by 50% to manufacture its products and reduce single-use plastic packaging by 50% by 2025.

52. Lululemon's marketing contains express misstatements and omissions of material fact and creates the net and general impression for reasonable consumers that Lululemon is a company whose operations and products are planet-friendly, and that its business practices, policies, and actions contribute to improving the environment and restoring the health of the planet.

53. Lululemon drives this general impression into consumer's minds through various statements and imagery throughout its websites, marketing materials and advertisements, and press releases, as well as throughout its retail stores and on its products, which build upon and perpetuate the message that the company's actions and products contribute to improving the environment and the restoration of a healthy planet. For example, and demonstrative purposes, it's in-store advertising makes such as, "What you do to the earth you do to yourself":



54. Lululemon’s Be Planet marketing campaign is false, deceptive, and misleading to consumers as it portrays Lululemon as something it is not. Lululemon’s actions and products create substantial and increasing greenhouse gas emissions and cause significant environmental pollution. Critically, Lululemon’s *greenhouse emissions have more than doubled* since the launch of its Be Planet campaign.

55. In fact, Canada’s Competition Bureau recently opened a formal investigation into Lululemon’s environmental claims in response to a complaint filed by Stand.earth, which alleged that Lululemon misleads customers about its environmental impact.<sup>66</sup> *See also IN THE MATTER OF: An application pursuant to s. 9(1)(b) of the Competition Act, RSC 1985, c C-34 requesting the Commissioner cause an inquiry to be made into the conduct of Lululemon Athletica Inc., Complaint, Feb. 8, 2024 (attached and incorporated as **Exhibit A**).*

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<sup>66</sup>. Competition Bureau opens formal investigation into Lululemon in response to complaint filed by Stand.earth, May 6, 2024 *available at* <https://stand.earth/press-releases/competition-bureau-opens-formal-investigation-into-lululemon-in-response-to-complaint-filed-by-stand-earth/> (last visited Jul. 12, 2024).

56. As one of the largest apparel companies in the world by market capitalization, Lululemon has a significant and growing climate and environmental footprint. Its actions and products directly cause harm to the environment and deterioration of the planet's health.

57. The great majority of Lululemon's greenhouse gas emissions—**99.7% of its total emissions**—are Scope 3 emissions created by its supply chain.<sup>67</sup> Significantly, many of Lululemon's products are made with polyester and nylon, which are manufactured from fossil fuels.<sup>68</sup> Further, **over 80%** of Lululemon's manufacturers and suppliers are located in countries with significant fossil fuel reliance and minimal grid renewables, including Vietnam, Cambodia, Sri Lanka, Bangladesh, and Indonesia.<sup>69</sup> Vietnam is the location from which Lululemon sources most of its products (39%).<sup>70</sup> Vietnam, however, is reported to have the fastest growth in coal use of all countries in Southeast Asia, at an annual growth rate of 11%.<sup>71</sup> It is also reported that in 2021, coal accounted for 47% of the country's electricity generation mix<sup>72</sup> and, from 2017 to 2020, Vietnam's carbon emissions increased by over 50%.<sup>73</sup>

58. Lululemon represents that it is committed to working with its suppliers to increase use of renewable energy and eliminate on-site coal boilers,<sup>74</sup> but such representations are not

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<sup>67.</sup> Based on information in Lululemon's 2022 Impact Report, it was calculated that Lululemon's Scope 3 emissions comprised 99.7% of its total emissions. 2022 Impact Report at 50, *supra*.

<sup>68.</sup> Gelfand Center, Carnegie Mellon University, "Natural vs. Synthetic Polymers" *available at* <https://www.cmu.edu/gelfand/lgc-educational-media/polymers/natural-synthetic-polymers/index.html> (last visited Jul. 12, 2024).

<sup>69.</sup> 2022 Annual Report at 5, *supra*. In 2022, approximately 39% of its products were made in Vietnam, 14% in Cambodia, 12% in Sri Lanka, 8% in Bangladesh, and 7% in Indonesia, and the remainder in other regions.

<sup>70.</sup> *Id.*

<sup>71.</sup> Thang Nam Do and Paul J. Burke, "Phasing out coal power in a developing country context: Insights from Vietnam" (2023) 176 *Energy Policy* ("Phasing out coal power in a developing country context: Insights from Vietnam") at 1, *available at* <https://www.sciencedirect.com/science/article/pii/S0301421523000976?via%3Dihub> (last visited Jul. 12, 2024).

<sup>72.</sup> *Id.* at 2.

<sup>73.</sup> MacroTrends, "Vietnam Carbon (CO2) Emissions 1990-2024" ("Vietnam Carbon (CO2) Emissions 1990-2024") *available at* <https://www.macrotrends.net/countries/VNM/vietnam/carbon-co2-emissions> (last visited Jul. 12, 2024).

<sup>74.</sup> 2022 Impact Report at 51, *supra*.

verifiable as many of Lululemon’s largest suppliers do not publish information relating to their coal usage or plans to switch to renewable energy. For example, Tan De Co Ltd., which is one of Lululemon’s largest suppliers, does not publicly report using any renewable energy to power its factories, has not set public targets to reduce its emissions, and does not have a published plan to phase out coal use.

59. Since Lululemon announced its Be Planet marketing campaign in 2020, rather than reducing its greenhouse gas emissions, ***Lululemon’s Scope 3 emissions have more than doubled***, as confirmed by Lululemon’s own reporting:<sup>75</sup>

- 2020: 829,456 tCO<sub>2</sub>e<sup>76</sup>
- 2021: 1,343,649 tCO<sub>2</sub>e<sup>77</sup>
- 2022: 1,691,009 tCO<sub>2</sub>e<sup>78</sup>

60. Lululemon’s 2022 emissions are the equivalent of burning of over 720 million liters of gasoline, over 3.8 million barrels of oil or the fueling of over 518,000 passenger vehicles for a year.<sup>79</sup> To make matters worse, Lululemon’s emissions are on track to continue to increase significantly as the company has a stated goal of doubling its 2021 revenue by 2026,<sup>80</sup> which will mean increased apparel manufacturing through its supply chain, with a corresponding increase in the company’s Scope 3 emissions.

<sup>75.</sup> Lululemon’s reporting omits certain Scope 3 emissions categories and therefore these values do not represent the entirety of the company’s emissions. See 2022 Impact Report at 79, *supra*.

<sup>76.</sup> Lululemon, “2020 Impact Report” at 59, available at [https://corporate.lululemon.com/~media/Files/L/Lululemon/our-impact/our-impact-agenda/2020-full-impact-report.pdf](https://corporate.lululemon.com/~/media/Files/L/Lululemon/our-impact/our-impact-agenda/2020-full-impact-report.pdf) (last visited Jul. 12, 2024).

<sup>77.</sup> 2022 Impact Report at 67, *supra*.

<sup>78.</sup> *Id.* at 79.

<sup>79.</sup> Natural Resources Canada, “Greenhouse Gas Equivalencies Calculator” available at <https://oee.nrcan.gc.ca/corporate/statistics/neud/dpa/calculator/ghg-calculator.cfm#results> (last visited Jul. 12, 2024).

<sup>80.</sup> Lululemon, “lululemon Announces Five-Year Growth Plan to Double Revenue by 2026 to \$12.5 Billion” (April 20, 2022) (“lululemon Announces Five-Year Growth Plan to Double Revenue by 2026 to \$12.5 Billion”) available at <https://corporate.lululemon.com/media/press-releases/2022/04-20-2022-113017957#:~:text=Leveraging%20its%20proven%20formula%20and%20supported%20by%20the,including%20product%20innovation%2C%20guest%20experience%2C%20and%20market%20expansion> (last visited Jul. 12, 2024).

61. The detrimental impact of Lululemon's products and actions on the environment is made worse by the company's use of air and marine freight to transport its products. Air freight creates approximately forty-seven times more CO<sub>2</sub> emissions than marine freight per ton-mile.<sup>81</sup> Notably, a study that assessed the use of air freight by major companies in the apparel industry highlighted Lululemon's high use of air freight.<sup>82</sup> The study found that Lululemon transports by air freight approximately 30% of its products manufactured in Vietnam and Sri Lanka. In contrast, competitors such as Nike, Adidas and Puma transported less than 5% of their products from Vietnam by air. In other words, while Lululemon's competitors achieve some balance between the use of environmentally harmful air freight and protection of the planet, Lululemon pursues a significantly more aggressive air freight strategy, despite its purported commitments to the improvement of the environment.

62. A company such as Lululemon that represents itself as taking actions which not only avoid harming the planet but actively contribute to a healthy planet would minimize the use of air freight to prioritize the health of the planet. However, when faced with supply chain difficulties, Lululemon chose to significantly increase its use of air freight, in disregard for the increased detrimental impacts on the environment. Lululemon admits to its increased reliance on air freight in its 2022 Impact Report:<sup>83</sup>

Early in 2022, the COVID-19 pandemic contributed to ongoing supply chain disruptions. As a result, we experienced longer lead times and delivery challenges, including pressure on ocean freight and seaports. This meant continued use of increased air freight in the first half of 2022, impacting our Scope 3 target performance.

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<sup>81.</sup> Vitality, "Air Freight vs Sea Freight Carbon Footprint: Which is Lower?" (2022), *available at* <https://vitality.io/air-freight-vs-sea-freight-carbon-footprint/#:~:text=Airfreight%20generates%2047%20times%20more,10%2D40%20grams%20per%20kilometer> (last visited Jul. 12, 2024).

<sup>82.</sup> PublicEye, "Following in Zara's slipstream: the airborne fashion of other brands", (December 18, 2023) *available at* <https://www.publiceye.ch/en/news/detail/following-in-zaras-slipstream-the-airborne-fashion-of-other-brands> (last visited Jul. 5, 2024).

<sup>83.</sup> 2022 Impact Report at 52, *supra*.



63. Further, the manufacture, transport, and use of Lululemon's products continues to create significant environmental harm: microplastics from Lululemon's products are polluting our oceans and inland waters; landfills in countries around the world are collecting Lululemon's discarded garments; fossil fuels are being used to power the factories of Lululemon's suppliers and create their synthetic textiles; and the shipping of Lululemon's products around the world is adding to greenhouse gas emissions as it also damages the marine environment.

**D. Lululemon makes numerous false, deceptive, and misleading environmental marketing claims.**

64. Lululemon's Be Planet campaign uses a combination of false, deceptive, and misleading representations, omissions of material facts, and "green" imagery on its website, throughout its hundreds of retail stores, and elsewhere, which, both individually and collectively, perpetuate the false message that the company's actions and products contribute to improving the environment and the restoration of a healthy planet.

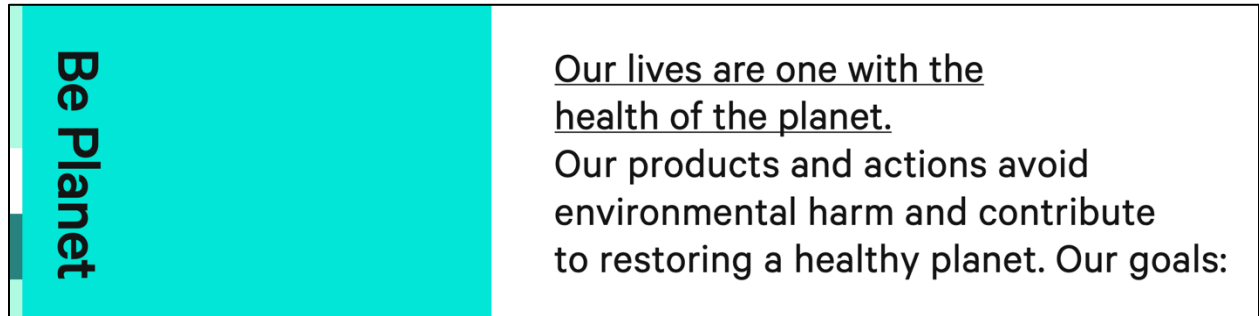
65. Lululemon intended for consumers to rely on its greenwashing campaign for the purpose of increasing sales, driving profits, and decreasing the sales or taking market share away from its competitors products.

**a. Lululemon's false, deceptive, and misleading unqualified environmental claims about the company's products and actions.**

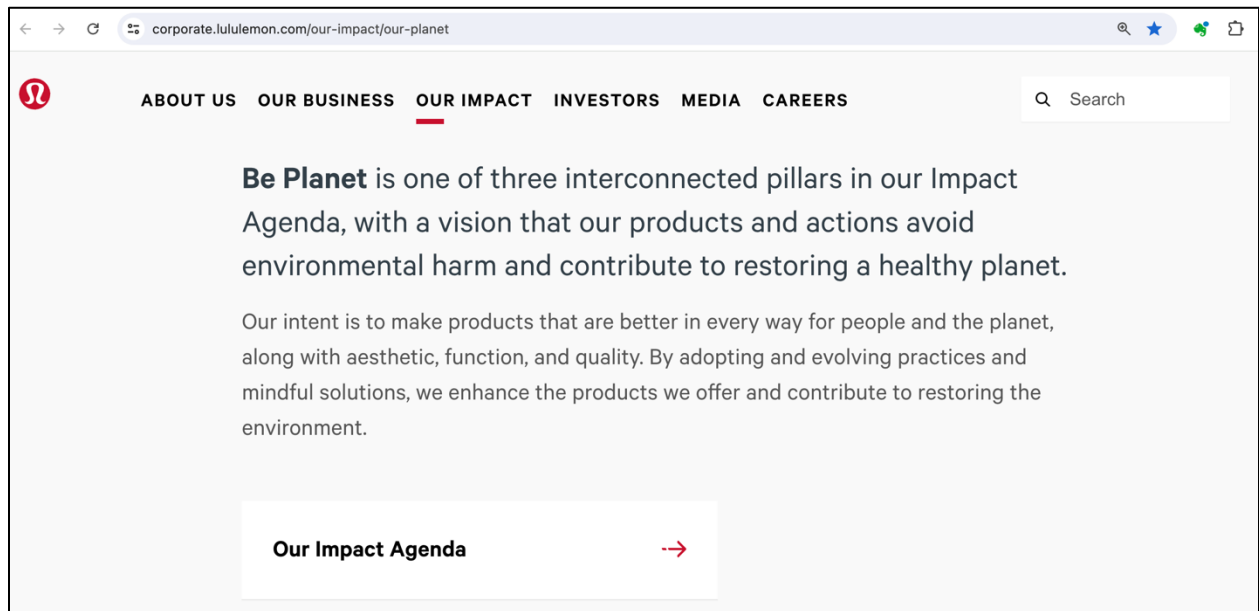
66. As part of its Be Planet campaign, Lululemon makes a number of direct, unqualified environmental claims about the company's products and actions that are false, deceptive, and/or misleading.



67. For example, in its 2020 Impact Summary, Lululemon states, “Our lives are one with the health of the planet. Our products and actions *avoid environmental harm* and *contribute to restoring a healthy planet*.”<sup>84</sup>



68. On its website, Lululemon states, “By adopting and evolving practices and mindful solutions, we enhance the products we offer and *contribute to restoring the environment*.”<sup>85</sup>



69. In its Impact Report 2022, under the heading, “Our lives are *interconnected* with the health of the planet,” Lululemon states, “We work across our value chain to *reduce our carbon*

<sup>84.</sup> Available at <https://corporate.lululemon.com/%7E/media/Files/L/Lululemon/our-impact/reporting-and-disclosure/lululemon-2020-impact-summary-en110521.pdf>, at p. 9 (last visited Jul. 12, 2024) (emphasis added).

<sup>85.</sup> Available at <https://corporate.lululemon.com/our-impact/our-planet> (last visited Jul. 12, 2024) (emphasis added).

*and water footprint, improve chemical management, develop and sell products that reflect the values of our guests, and contribute to a healthier environment.”*<sup>86</sup>

Our lives are *interconnected* with the health of the planet.

\* \* \*

The potential of people is limitless, but the planet—our home—is not. At lululemon, we are on a journey to become a net-zero company and have set science-based targets that are the foundation for our climate action goals. We seek to lead in innovating preferred materials and create a circular ecosystem by designing out waste and keeping materials in use for as long as possible. We work across our value chain to reduce our carbon and water footprint, improve chemical management, develop and sell products that reflect the values of our guests, and contribute to a healthier environment.

70. Lululemon also states in its Impact Agenda 2020, under the heading, “Our lives are one with the health of our planet,” that “We envision a future where we thrive within the limits of our one planet. That is why *we act to avoid environmental harm and contribute to restoring a healthy planet.*”<sup>87</sup>

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<sup>86.</sup> 2022 Impact Report at 46, *supra* (some emphasis added).

<sup>87.</sup> Impact Agenda 2020 *available at* [https://pnimages.lululemon.com/content/dam/lululemon/www-images/Footer/Sustainability/lululemon\\_ImpactAgenda\\_October202023.pdf](https://pnimages.lululemon.com/content/dam/lululemon/www-images/Footer/Sustainability/lululemon_ImpactAgenda_October202023.pdf), at p. 25 (last visited Jul. 12, 2024) (some emphasis added).

# Our lives are one with the health of our planet.

We envision a future where we thrive within the limits of our one planet. That is why we act to avoid environmental harm and contribute to restoring a healthy planet.

At lululemon, we create products and experiences that reflect the values of our guests and our aspirations for a healthier world.

We will work to be part of a circular ecosystem, based on principles of designing out waste and pollution, keeping products and materials in use, regenerating natural systems, and using clean renewable energy.<sup>6</sup> Underlying is the

imperative to act on climate change, and we've set ambitious, science-based carbon targets that are linked to all of our Be Planet goals.

By transforming our materials and products, guest experience models, and supply chains and by partnering with our collective, suppliers, and industry stakeholders, we take responsibility to help evolve our industry toward a more sustainable future—one that is truly better for our planet.

We know we have a long way to go, but we're committed to accelerating our progress and being part of the solution.

71. These public statements by Lululemon represent to consumers, and cause them to believe, that the company's practices, solutions, products, and actions (1) avoid environmental harm; (2) reduce the company's carbon and water footprint; (3) contribute to restoring the environment and a healthy planet; and (4) that the products it develops and sells reflect the values of its customers.

72. These statements are false, deceptive, and likely to mislead reasonable consumers. The imagery in its stores and website that Lululemon uses in combination with its messaging contributes to the false and misleading messaging of its Be Planet marketing campaign. Pictures of rivers, healthy forests and nature do not accurately reflect the nature of Lululemon's business or the impact of its activities and products on the environment and, thus, reinforce and perpetuate a false, deceptive, and misleading message to consumers that Lululemon is a sustainable and environmentally friendly brand, when it clearly is not.

73. The true facts are that Lululemon is part of a global industry that contributes between 1.8% to 8% of the world’s greenhouse gas emissions,<sup>88</sup> the vast majority of which are created by its value chains.<sup>89</sup>

74. Lululemon specifically has an enormous supply chain that produces substantial greenhouse gas emissions. The great majority of Lululemon’s supply chain is located in countries with a heavy fossil fuel reliance and minimal grid renewables, including Vietnam, Cambodia, Sri Lanka, Bangladesh, and Indonesia.<sup>90</sup> Vietnam is the location from which Lululemon sources *most* of its products (39%).<sup>91</sup> Vietnam is reported to have the *fastest growth in coal* use of all countries in Southeast Asia, at an *annual growth rate of 11%*.<sup>92</sup> In 2021, *coal accounted for 47%* of the country’s electricity generation.<sup>93</sup> Further, from 2017 to 2020, Vietnam’s *carbon emissions increased by over 50%*.<sup>94</sup>

75. Critically, *since making its Be Planet commitments in 2020, the company’s Scope 3 emissions*—which make up more than 99% of the company’s carbon footprint—*have more than doubled* to 1,691,009 tCO<sub>2</sub>e.<sup>95</sup> And *these emissions are on track to continue to increase* as Lululemon has a stated goal of doubling its 2021 revenue by 2026.<sup>96</sup> Notably, Lululemon’s products most heavily rely on polyester and nylon—materials that are *produced from fossil fuels*. In addition, Lululemon chooses to transport *a higher percentage of its products by air freight* than

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<sup>88.</sup> Taking Stock of Progress Against the Roadmap to Net Zero, *supra*, at 2; Fashion on Climate, *supra*, at 5; “Measuring Fashion: Insights from the Environmental Impact of the Global,” *supra*, at 2.

<sup>89.</sup> Taking Stock of Progress Against the Roadmap to Net Zero, *supra*, at 7.

<sup>90.</sup> See 2022 Annual Report, *supra*.

<sup>91.</sup> *Id.*

<sup>92.</sup> Phasing out coal power in a developing country context: Insights from Vietnam, *supra*, at 1.

<sup>93.</sup> *Id.*

<sup>94.</sup> Vietnam Carbon (CO<sub>2</sub>) Emissions 1990-2024, *supra*.

<sup>95.</sup> 2022 Impact Report, *supra*, at 79.

<sup>96.</sup> lululemon Announces Five-Year Growth Plan to Double Revenue by 2026 to \$12.5 Billion, *supra*.

its competitors, despite the fact that *air freight generates significantly more greenhouse gas emissions* than marine shipping.<sup>97</sup>

76. Lululemon’s supply chain operations also used more than 29 billion liters of freshwater in 2022.<sup>98</sup> And the polyester and nylon materials so heavily relied on by Lululemon are *known to release significant amounts of microplastics into the planet’s oceans and inland waters* when washed. And a significant amount of Lululemon’s garments and packaging end up in landfills each year.

**b. Lululemon’s false, deceptive, and misleading environmental claims that overemphasize minor environmental benefits.**

77. Separate and apart from the false, deceptive, and misleading representations above, Lululemon makes false, deceptive, and misleading representations that overemphasize the significance of certain environmental initiatives that provide only minor improvements or benefit relative to the company’s overall climate and environmental footprint. The effect of this type of marketing deflect attention away from the significant environmental harm caused by Lululemon’s business, and leaves consumers with the general impression that Lululemon is a planet-friendly company when it is not.

78. In an April 20, 2021, Press Release, Lululemon announced its “recommerce” program called lululemon *Like New* as “the latest efforts from the brand under its Be Planet pillar, which is focused on making products that are better in every way for people and the planet[.]” stating that Lululemon “is *actively working to help create a healthier future*[.]”<sup>99</sup>

**lululemon Delivers on its Impact Agenda Commitments with Two New Sustainability Initiatives Launching in May**

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<sup>97.</sup> PublicEye, “Following in Zara’s slipstream: the airborne fashion of other brands,” (Dec. 18, 2023) *available at* <https://www.publiceye.ch/en/news/detail/following-in-zaras-slipstream-the-airborne-fashion-of-other-brands> (last visited Jul. 12, 2025).

<sup>98.</sup> 2022 Impact Report, *supra* at 46.

<sup>99.</sup> *Available at* <https://corporate.lululemon.com/media/press-releases/2021/04-20-2021-085727212> (last visited Jul. 12, 2024) (emphasis added).

Apr 20, 2021

lululemon Like New recommerce program and Earth Dye product capsule reinforce the brand's focus on creating product experiences that are better for people and the planet

VANCOUVER, British Columbia--(BUSINESS WIRE)-- lululemon athletica inc. (NASDAQ:LULU) today announced two new initiatives that underscore lululemon's commitment to its Impact Agenda and deliver on its future-facing commitments toward sustainability: lululemon*Like New*, the brand's first-ever recommerce program, and Earth Dye, a new, limited-edition collection made with earth-friendly dyes, both launching this May. ***The new initiatives are the latest efforts from the brand under its Be Planet pillar, which is focused on making products that are better in every way for people and the planet.***

"lululemon is actively working to help create a healthier future, and we are focused on meeting the goals detailed in our Impact Agenda, including making 100 percent of our products with sustainable materials and end-of-use solutions by 2030," said lululemon CEO Calvin McDonald. "Our lululemon*Like New* and Earth Dye initiatives are both meaningful steps towards a circular ecosystem and demonstrate the sustainable innovation underway in product development and retail."

Released in Fall 2020, lululemon's Impact Agenda marked the brand's stake in the ground toward an equitable, sustainable future, and outlined its vision to minimize environmental impact and contribute to a better world. Developing products with sustainable materials and end-of-use solutions are central to the multi-year strategy.

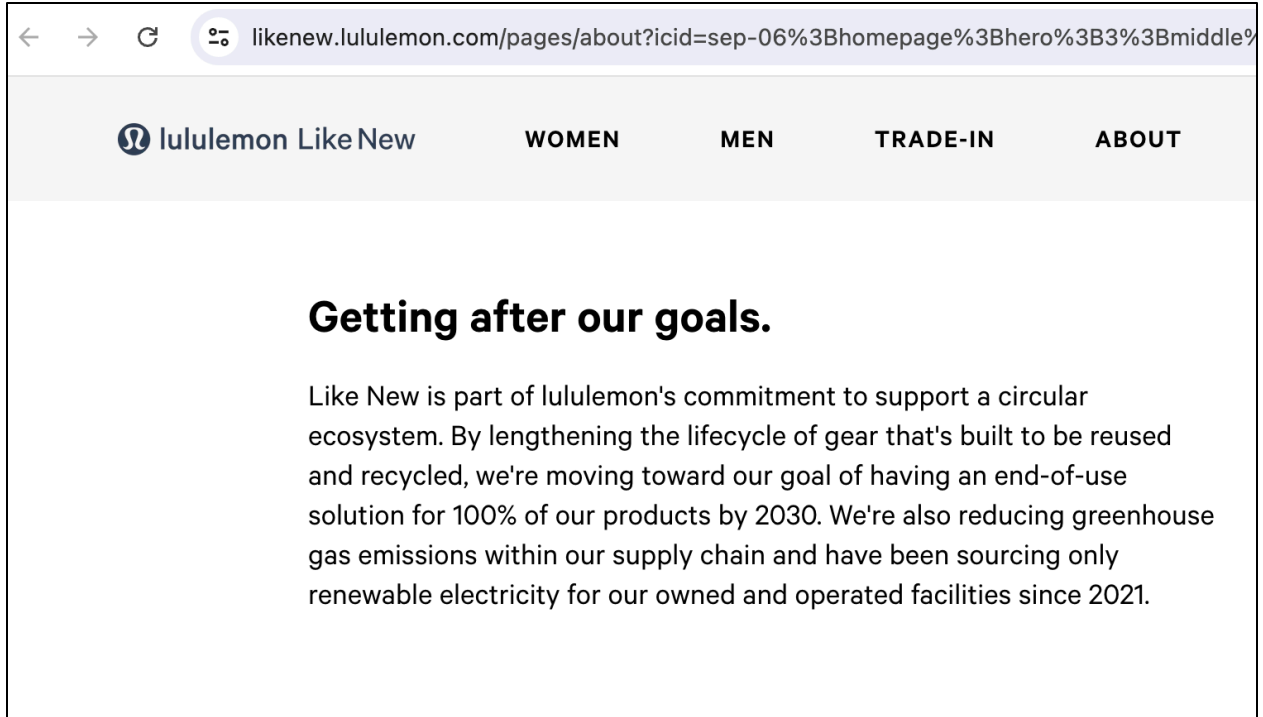
lululemon*Like New* is a creative and regenerative guest model, and one way the brand is extending the life of product that has been designed to last. lululemon also continues to innovate better materials. The lower impact dyes featured in the new Earth Dye collection follow the introduction of solution-dyed nylon, as well as recycled polyester and FSC® (Forest Stewardship Council®) certified rubber materials, among others. lululemon is a founding member of the Mylo™ Consortium as well, a group of forward-thinking global companies focused on contributing to a more sustainable future for fashion. Mylo™ is a sustainable alternative to leather made from renewable mycelium.

79. On its website, Lululemon states, "We also are on track to ***make 100% of our products with sustainable materials*** by 2030, and as of 2021, we're ***sourcing 100% renewable electricity*** for our owned and operated facilities."<sup>100</sup>

<sup>100.</sup>

*See*

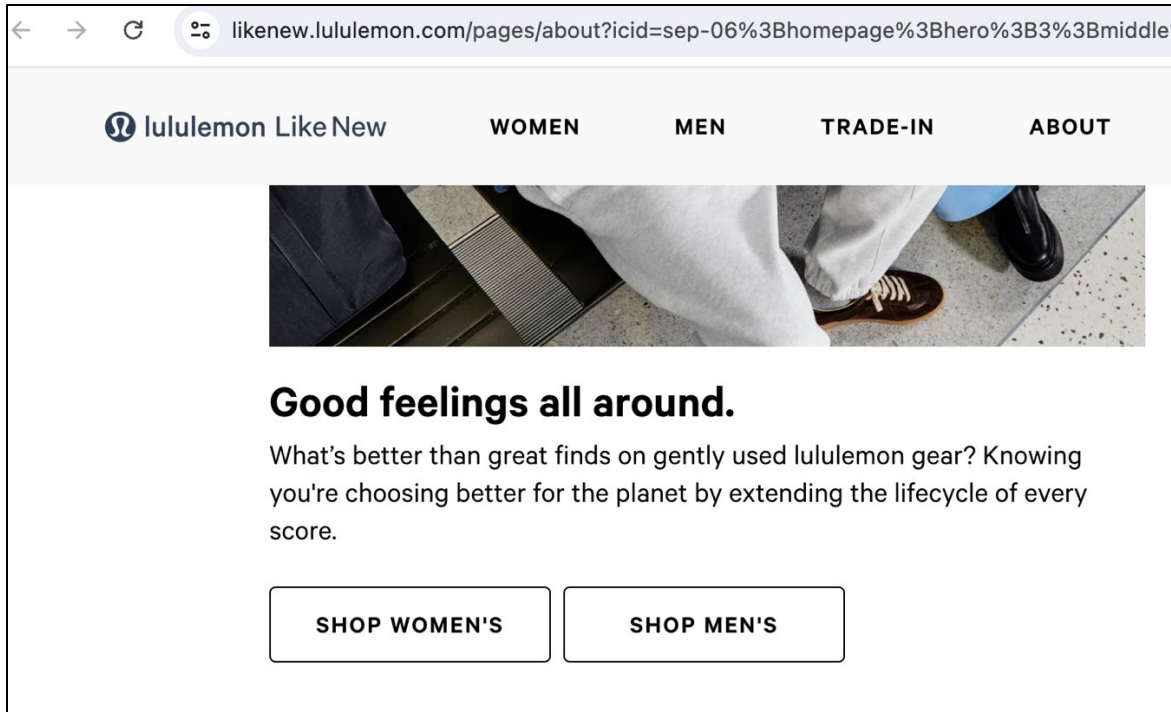
<https://likenew.lululemon.com/pages/about?icid=sep-06%3Bhomepage%3Bhero%3B3%3Bmiddle%3Babout%3A1p> (last visited Jul. 12, 2024).



80. Lululemon also states on its website that “Good feelings all around. What’s better than great finds on gently used lululemon gear? Knowing you're helping restore a healthier planet.”<sup>101</sup>

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<sup>101.</sup> *Id.*



81. The foregoing statements are unfair, false, deceptive, and misleading to reasonable consumers because they overemphasize the company’s environmental harm reduction efforts by using the relatively minor harm reduction benefits of this program to repeat and emphasize the false message that Lululemon is “helping restore a healthier planet.”<sup>102</sup> Even if the program could hypothetically lead to some relatively minor reductions in the environmental harm caused by the company—which, as noted above, is significant and growing—it is false and misleading to suggest that a consumer who takes part in the program—and chooses to pay the premium prices for Lululemon products—is “helping restore a healthier planet.”

82. Significantly, the “Like New” program is not well-designed to achieve its stated goals as Lululemon requires products to be returned in “like new” condition, and gift cards given in exchange for “like new” products can only be used on new items. In other words, while potentially promoting the use of some clothes for longer periods of time, the program is also

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<sup>102.</sup> *Id.*



promoting increased consumption of new clothes. While some discarded clothing might avoid the landfill for a few years, nothing about the program will “restore a healthier planet,” and Lululemon omits material facts regarding the total amount of the Company’s products sold in the U.S. or worldwide that are disposed into landfills, or the relative proportion of products returned through this program that are resold.

83. Lululemon’s statement that “we’re sourcing 100% renewable electricity for *our* owned and operated facilities” is misleading because Lululemon fails to disclose that that the company’s *owned and operated* facilities have only ever made up an extremely small percentage of the company’s greenhouse gas emissions, whereas the company’s Scope 3 greenhouse gas emissions made up *over 99.7% of the company’s emissions in 2022,<sup>103</sup> and are increasing.*

84. Lululemon’s statement that its Like New program will “restore the environment” is misleading because nothing about the program will *restore* the environment. At best, the program could only hypothetically cause some reduction to the tones of Lululemon apparel products that will end up in landfills.

85. Lululemon’s statement that it is “on track to make 100% of our products with sustainable materials by 2030” is misleading because it suggests that *each of its products* will be 100% made from “sustainable” products without disclosing the extent of “sustainable” material that will be used in each product. Further and for the reasons discussed above, Lululemon’s products, even if made with recycled polyester or nylon will still cause environmental harm.<sup>104</sup>

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<sup>103.</sup> See 2022 Impact Report, *supra* at 50.

<sup>104.</sup> If Lululemon includes rPET (recycled polyester) material within its definition of sustainable material, there are significant environmental issues with its use as discussed above.

86. Both individually and taken together, the foregoing misrepresentations and omissions mislead consumers by creating the false net and general impression that Lululemon is positively contributing to a healthier planet when it is not.

**c. Lululemon’s false, deceptive, and misleading environmental claims relating to the company’s greenhouse gas emission targets.**

87. Lululemon’s campaign also makes materially unfair, false, deceptive, and misleading representations and omissions regarding its plans to reduce its greenhouse gas emissions.

88. On its website, under the heading, “Climate Action,” Lululemon introduces its purported “2030 science-based climate targets,” which include “achieving: **60% absolute reduction of greenhouse gas (GHG) emissions** in all owned and operated facilities (Scope 1 and 2)” and **60% intensity reduction of GHG emissions** across our global supply chain (Scope 3)[.]”<sup>105</sup>

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<sup>105.</sup> See <https://corporate.lululemon.com/our-impact/our-planet> (last visited Jul. 12, 2024).

A CAREERS  SHOP

## Climate Action

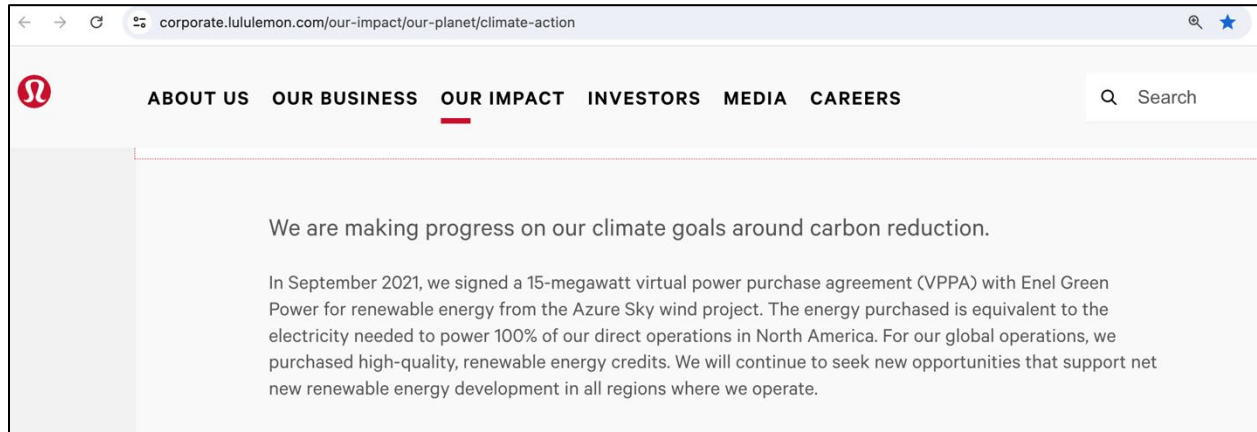
- Meet our science-based climate targets by achieving:
  - 60% absolute reduction of greenhouse gas (GHG) emissions in all owned and operated facilities<sup>2</sup> (Scope 1 and 2) by 2030
  - 60% intensity reduction of GHG emissions across our global supply chain<sup>3</sup> (Scope 3) by 2030
  - Become a net-zero company by 2050<sup>4</sup>
- Goal Met: Achieve 100% renewable electricity to power owned and operated facilities by 2021

<sup>2</sup> Owned and operated refers to where lululemon has direct operational control. This goal refers to Scope 1 and 2 emissions.

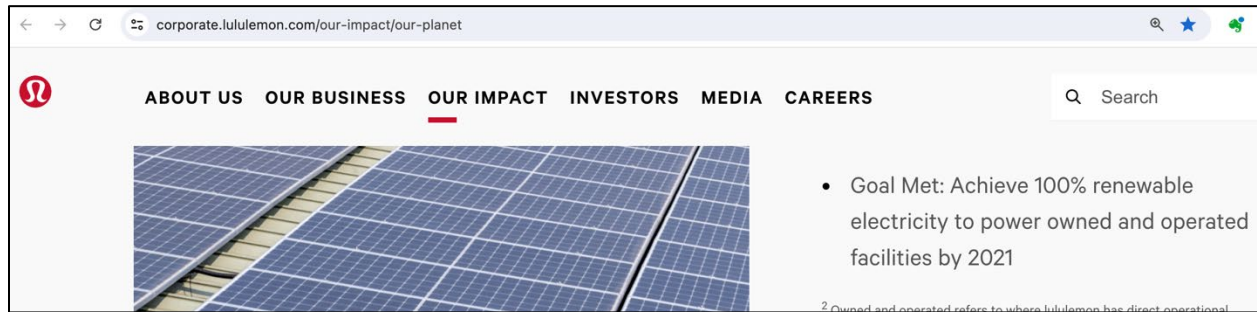
<sup>3</sup> Includes purchased goods and services, and upstream transportation and distribution only. Intensity reduction is per net revenue from operations.

<sup>4</sup> The Science Based Target Initiative's (SBTi) Net-Zero standard requires companies to cut emissions by >90% and use permanent carbon removal and storage to counterbalance the final <10% of residual emissions that cannot be eliminated. [SBTi validated our target in 2024](#)

89. Lululemon claims on its website that “We are making progress on our climate goals around carbon reduction.”<sup>106</sup>



90. Lululemon represents on its website that the company met its goal to “[a]chieve *100% renewable electricity* to power owned and operated facilities by 2021.”<sup>107</sup>



91. In its Impact Agenda 2020, Lululemon states, “We’re working toward a carbon-neutral future, starting with cutting our own emissions across our value chain and supporting a global movement for action.”<sup>108</sup>

<sup>106.</sup> See <https://corporate.lululemon.com/our-impact/our-planet/climate-action> (last visited Jul. 5, 2024).

<sup>107.</sup> See <https://corporate.lululemon.com/our-impact/our-planet>

<sup>108.</sup> See Impact Agenda 2020, *supra* at 32



## Act on climate change and renewable energy.

Climate change is the defining challenge of our time. Humans produce more carbon dioxide than nature can absorb, and the apparel industry contributes to this problem. We're working toward a carbon-neutral future, starting with cutting our own emissions across our value chain and supporting a global movement for action.

BE PLANET.  
32

92. Lululemon in its Impact Agenda 2020 makes the statement that, “By 2030, we will decarbonize our value chain, meeting ambitious science-based targets.”<sup>109</sup>



### GOALS

By 2021, we will source 100 percent renewable electricity for our own operations.

By 2030, we will decarbonize our value chain, meeting ambitious, science-based targets.

LULULEMON 2020 IMPACT AGENDA

93. These representations are unfair, false, deceptive, and misleading to reasonable consumers.

94. First, Lululemon’s representations regarding its target to achieve 60% reduction in Scope 1 and 2 emissions is misleading because Lululemon fails to disclose that these emissions comprise only about 0.3% of Lululemon’s total greenhouse gas emissions. In other words, achieving this goal will, at best, have a negligible impact on Lululemon’s overall greenhouse gas

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<sup>109.</sup> *Id.* at 32.

emissions. Instead, by presenting the Scope 1 and 2 emission reduction targets in this manner, Lululemon creates the general (and false) impression that it is targeting significant greenhouse gas reductions.

95. Second, Lululemon's representations regarding its target to reduce Scope 3 emissions is misleading because Lululemon presents the target as "intensity" based rather than absolute, and as the ultimate stated goal of the company is to become a net-zero company by 2050, it creates the misleading impression on consumers that Lululemon's greenhouse gas emissions will be reducing towards net-zero when they are, in fact, increasing if Lululemon attains its revenue growth targets for 2026.<sup>110</sup> The problems and controversial nature of "intensity-based" emission reduction targets is well-recognized, as the Columbia Center on Sustainable Development reports:<sup>111</sup>

GHG reduction targets set by companies can be based on absolute emissions or on emissions intensity. An absolute target consists of a set number of metric tons of emissions, usually expressed in CO<sub>2</sub>-equivalent (CO<sub>2</sub>e) to account for CO<sub>2</sub> as well as other GHGs. Often this number is indicated as a percentage of emissions relative to a selected base year. For example, a cement company analyzed set a 2030 goal to reduce its GHG emissions by 28% relative to its selected base year of 2007. In turn, intensity-based targets measure metric tons of CO<sub>2</sub>e per unit of production. Another cement company pledged to reduce its emissions intensity to below 520 kg CO<sub>2</sub>e per metric ton of output by 2030. ***Intensity-based decarbonization goals are controversial, as they do not guarantee absolute emissions reductions.*** If a company's emissions intensity decreases, but its production volume increases at a greater rate, its annual GHG emissions may still increase. Accordingly, absolute targets are preferable: a company that sets and achieves an absolute emissions target will shrink its carbon footprint, even if its production increases.

96. Finally, despite Lululemon's many representations about being committed to restoring a healthy planet, Lululemon is not even on track to meet its own Scope 3 emission

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<sup>110.</sup> lululemon Announces Five-Year Growth Plan to Double Revenue by 2026 to \$12.5 Billion, *supra*, at 38.

<sup>111.</sup> Jack Arnold and Perrine Toledano, "Corporate Net-Zero Pledges: The Bad and the Ugly" *Columbia Center on Sustainable Development*, (1 December 2021), available at <https://ccsi.columbia.edu/news/corporate-net-zero-pledges-bad-and-ugly> (last visited Jul. 5, 2024) (emphasis added).

reduction target. In its most recent Impact Report, Lululemon reports that progress towards the target is not on track. The intensity of the company's Scope 3 emissions has only decreased by 7%. The report notes that this environmental initiative "needs acceleration."<sup>112</sup> Despite these admissions, Lululemon made the marketing decision to continue with its Be Planet greenwashing campaign.

97. Lululemon's numerous general claims regarding its carbon emissions, including that it is working toward a carbon-neutral future, that it is decarbonizing its value chain, and that it is making progress on its climate goals are also deceptive and misleading because they create the misleading impression that Lululemon is reducing carbon emissions across its supply chain. This impression is directly contrary to the fact that Lululemon's carbon emissions increased significantly since the Be Planet marketing campaign was announced, with its total Scope 3 emissions having doubled between 2020 and 2022.

**d. Lululemon's false, deceptive, and misleading environmental claims about the company's "vision," "goals," and "commitments."**

98. Lululemon's marketing campaign also makes deceptive and misleading claims about the company's "vision," "goals," and "commitments" that perpetuate the false impression in consumer's minds regarding the sustainability and environmental impact of Lululemon's products and actions.

99. In its Impact Agenda 2020, Lululemon states, "Our products and actions *avoid environmental harm and contribute to restoring a healthy planet.*"<sup>113</sup>

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<sup>112.</sup> 2022 Impact Report, *supra*, at 66.

<sup>113.</sup> Impact Agenda 2020, *supra*, at 4 (emphasis added).



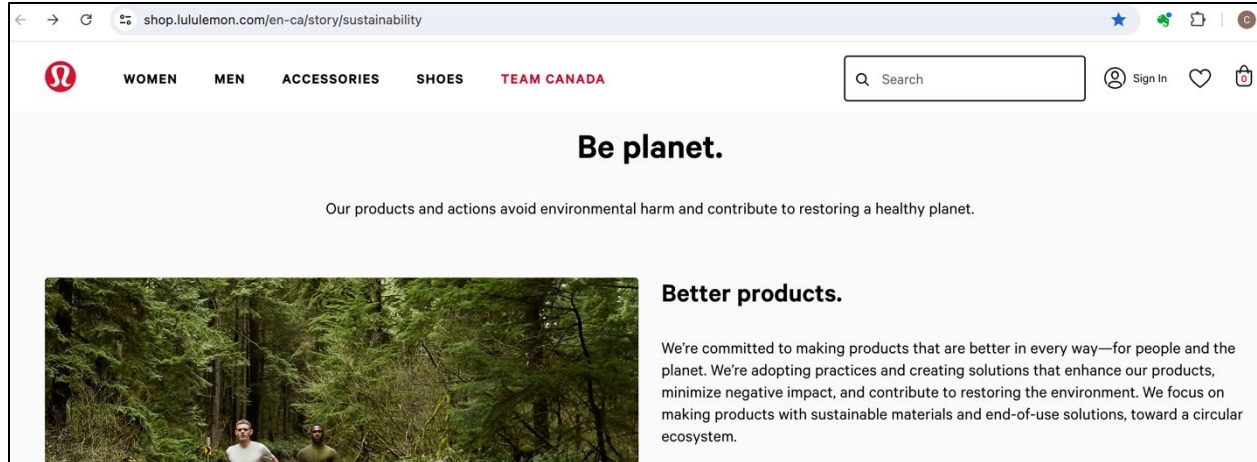
Our Impact Agenda is organized into three interconnected pillars, each with a vision for success, goals, and commitments and strategies:

**Be human.** Our people succeed because we create an environment that is equitable, inclusive, and fosters growth.

**Be well.** Our communities thrive because we contribute to conditions that support mental, physical, and social wellbeing.

**Be planet.** Our products and actions avoid environmental harm and contribute to restoring a healthy planet.

100. On its website, Lululemon states, “We’re committed to making products that are *better in every way-for...the planet.*”<sup>114</sup>



101. The foregoing statements are deceptive and misleading to reasonable consumers because, through these statements, Lululemon promises consumers that the company’s products and actions avoid environmental harm, contribute to the restoration of a healthy planet and are

<sup>114</sup>. See <https://shop.lululemon.com/en-ca/story/sustainability> (last visited Jul. 12, 2024).



better in every way for the planet, but Lululemon’s actions and products, in fact, cause harm to the environment in ways discussed above. Lululemon is an apparel company with an enormous supply chain based in countries such as Vietnam, Cambodia, Sri Lanka, Bangladesh, and Indonesia, that produces substantial, and increasing, amounts of greenhouse gas emissions in the course of manufacturing millions synthetic textile apparel products that are packaged and transported to Lululemon’s many stores around the world. Not only does combustion of coal emit greenhouse gases, but it also emits toxic and carcinogenic pollutants into the air, water, and land. In fact, coal is so detrimental to the environment that the UN Secretary General António Guterres has urged governments and private companies alike to end their reliance on coal, calling this “the single most important step to get in line with the 1.5-degree goal of the Paris Agreement.”<sup>115</sup>

102. Lululemon relies heavily on synthetic fabrics in its products, with polyester and nylon representing over 60% of the company’s material mix, which release significant amounts of microplastics. Further, while Lululemon claims that it is converting to recycled polyester and nylon in its products,<sup>116</sup> experts do not consider these products to be a truly sustainable alternative as they are energy intensive to manufacture, do not biodegrade and still release microplastics.<sup>117</sup> A 2021 study found that washing knitted recycled polyester fabric, which is used by Lululemon,<sup>118</sup> shed 2.3 times more microfibers than virgin polyester.<sup>119</sup> It is also likely that many millions of

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<sup>115.</sup> United Nations Climate Change, “UN Chief Calls for Immediate Global Action to Phase Out Coal” (March 2, 2021), *available at* <https://unfccc.int/news/un-chief-calls-for-immediate-global-action-to-phase-out-coal> (last visited Jul. 12, 2024).

<sup>116.</sup> *See* 2022 Impact Report, *supra*, at 55.

<sup>117.</sup> Veronica Bates Kassatly and Dorothee Baumann-Pauly, “The Great Greenwashing Machine - Part 2: The Use and Misuse of Sustainability Metrics In Fashion” *Eco-Age*, *available at* [https://eco-age.com/wp-content/uploads/2022/03/Great-Green-Washing-Machine-Report-Part-2\\_FINAL.pdf](https://eco-age.com/wp-content/uploads/2022/03/Great-Green-Washing-Machine-Report-Part-2_FINAL.pdf), at p. 33-39 (last visited Jul. 12, 2024).

<sup>118.</sup> *See, e.g.*, Shop.Lululemon.com, “Boxy Knit T-Shirt” *available at* [https://shop.lululemon.com/p/womens-t-shirts/Boxy-Knit-T-Shirt-MD/\\_/prod11450233](https://shop.lululemon.com/p/womens-t-shirts/Boxy-Knit-T-Shirt-MD/_/prod11450233) (last visited Jul. 12, 2024). This Boxy Knit T-shirt is described as smooth, knit fabric and is made with 100% recycled polyester.

<sup>119.</sup> İlkan Özkan & Sedat Gündoğdu, “Investigation on the microfiber release under controlled washings from the knitted fabrics produced by recycled and virgin polyester yarns” (2021) *The Journal of The Textile Institute*, 112:2,

Lululemon's products also end up in landfills. Additionally, in 2022, Lululemon reported that its priority suppliers, which produce approximately 84% of Lululemon's production value, used 29.2 billion liters of freshwater.<sup>120</sup>

### CLASS ALLEGATIONS

103. Plaintiff brings this action individually and as a class action under Fed. R. Civ. P. 23 on behalf of the following proposed Classes:

**Nationwide Class: All persons who purchased any Lululemon branded product for personal use and not for resale in the United States since October 28, 2020.**

**Florida Subclass: All persons who purchased any Lululemon branded product for personal use and not for resale in Florida since October 28, 2020.**

104. The proposed Classes defined above are, at times, collectively referred to as, the "Class."

105. Plaintiff reserves the right to expand or narrow the definitions of the Class following discovery, including by narrowing the nationwide class to specific States whose consumer protection laws present common and predominant issues.

106. Excluded from the Class is Defendants and their employees and agents.

107. **Numerosity.** The members of the Class are so numerous that individual joinder is impracticable. Plaintiff cannot know the exact number of Class members affected by Defendant's conduct, but Plaintiff alleges upon information and belief, that each Class includes, thousands of members and, at a minimum, at least 40 members. The members of the Class are ascertainable because they are defined by reference to objective criteria. The exact number and identities of the Class members are unknown at this time but can be ascertained through discovery, and

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264-272, available at <https://www.tandfonline.com/doi/full/10.1080/00405000.2020.1741760> (last visited Jul. 12, 2024).

<sup>120.</sup> 2022 Impact Report, *supra*, at 66.

identification of the Class members is a matter capable of ministerial determination from Defendant's records. Nevertheless, despite the estimated size of the Class, members of the Class may be notified of the class certification and pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. Mail, electronic mail, Internet postings, and/or published notice through the assistance of a Class Action Administrator.

108. ***Common questions of law and fact predominate.*** There are numerous questions of law and fact common to the Classes that predominate over any questions affecting only individual members of the Classes, which will produce common answers that will drive resolution of the litigation, and they include, but are not limited to, the following:

- a. Whether Lululemon misrepresented facts related to the sustainability and environmental impact of its actions and products;
- b. Whether Lululemon omitted facts related to the sustainability and environmental impact of its actions and products;
- c. Whether Lululemon's misrepresentations and omissions were material;
- d. Whether Lululemon's misrepresentations and omissions would deceive a reasonable consumer;
- e. Whether Lululemon's misrepresentations and omissions violate the Florida Deceptive and Unfair Trade Practices Act;
- f. Whether Lululemon's misrepresentations and omissions violate Florida's misleading advertising law;
- g. Whether Lululemon was unjustly enriched;
- h. Whether the Class was damaged by Lululemon's conduct and the amount of such damages; and

- i. Whether Lululemon should be enjoined from engaging in the conduct alleged herein.

109. **Typicality.** Plaintiff's claims are typical of the claims of the members of the Class because they are based on the same factual and legal theories, Plaintiff and the Class members were harmed by Defendants in the same way, and Plaintiff is not subject to any unique defenses.

110. **Adequacy of Representation.** Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff has retained counsel highly experienced in complex consumer class action litigation, and Plaintiff intends to vigorously prosecute this action. Further, Plaintiff has no interests that are antagonistic to those of the members of the Class.

111. **Superiority.** A class action is superior to all other available methods for the fair and efficient adjudication of this lawsuit because individual litigation of the claims of all members of the Class is economically unfeasible and procedurally impracticable. While the aggregate damages sustained by members of the Class are in the millions of dollars, the amount of individual damages to each member of the Class resulting from Defendant's wrongful conduct does not warrant the expense of individual lawsuits. The likelihood of individual members of the Class prosecuting their own separate claims is remote and, even if every member of the Class could afford individual litigation, the court system would be unduly burdened by individual litigation of such cases.

112. The prosecution of separate actions by members of the Class would create a risk of establishing inconsistent rulings and/or incompatible standards of conduct for Defendant. For example, one court might enjoin Defendants from performing the challenged acts, whereas another may not.

## CAUSES OF ACTION

## COUNT I

**Violation of the Florida Deceptive and Unfair Trade Practices Act,  
Fla. Sta. §§ 501.201, *et seq.*  
(On behalf of Plaintiff and the Classes)**

113. Plaintiff realleges and incorporates by reference the allegations in the above paragraphs 1 through 112, as though fully set forth herein.

114. FDUTPA “shall be construed liberally to promote the following policies: (1) To simplify, clarify, and modernize the law governing consumer protection, unfair methods of competition, and unconscionable, deceptive, and unfair trade practices; (2) To protect the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce; [and] (3) To make state consumer protection and enforcement consistent with established policies of federal law relating to consumer protection. Fla. Stat. § 501.202(2).

115. Plaintiff is a “consumer” within the meaning of the FDUTPA.

116. Defendants sells “goods” within the meaning of the FDUTPA.

117. Defendants are engaged in “trade or commerce” within the meaning of the FDUTPA.

118. Fla. Stat. § 501.204(1) declares unlawful “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.”

119. Fla. Stat. § 501.204(2) states that “it is the intent of the Legislature that, in construing subsection (1) due consideration and great weight shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to [section] 5(a)(1) of the Federal Trade Commission Act.”

120. As alleged herein, Defendants violated the FDUTPA by knowingly and intentionally misrepresenting and concealing and/or failing to disclose material facts regarding the sustainability and environmental impact of Lululemon's actions and products.

121. By knowingly and intentionally misrepresenting, omitting, concealing, and failing to disclose material facts regarding the sustainability and environmental impact of Lululemon's actions and products, as detailed above, Defendants engaged in unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices prohibited by the FDUTPA.

122. Defendants' unfair or deceptive acts or practices, including their misrepresentations, concealments, omissions, and suppression of material facts, as alleged herein, had a tendency or capacity to mislead and create a false impression in consumers' minds, and were likely to and, in fact, did deceive reasonable consumers, including Plaintiff and the Class members, about the sustainability and environmental impact of Lululemon's actions and products.

123. The facts that Defendants knowingly and intentionally misrepresented, omitted, concealed, and/or failed to disclose would be considered material by a reasonable consumer, and were, in fact, material to Plaintiff and the Class members, who consider such facts to be important to their decision to pay substantial premiums to purchase products they believed to be sustainably produced with a positive impact on the environment, from a company that falsely claimed to be environmentally conscious and to be taking active steps to improve the environmental crisis.

124. Defendants owed Plaintiff and Class members a duty to not create an unfair, false, deceptive, or misleading impression concerning the sustainability and environmental impact of Lululemon's products and actions. Defendants possessed exclusive knowledge of the true facts, but intentionally concealed those facts from Plaintiff and the Class members, and/or they made

misrepresentations that were rendered misleading because they were contradicted by undisclosed facts.

125. Defendants have violated FDUTPA by engaging in its unfair and deceptive greenwashing campaign, which offends public policies and is immoral, unethical, unscrupulous and substantially injurious to consumers.

126. Plaintiff and the Class members were aggrieved by Defendants' violations of the FDUTPA because they suffered ascertainable loss and actual damages as a direct and proximate result of Defendants' knowing and intentional misrepresentations, omissions, concealments, and failures to disclose material facts, as alleged herein.

127. Plaintiff and the Class members purchased Lululemon products for a premium in reliance on Defendant's misrepresentations, omissions, concealments, and/or failures to disclose material facts, as alleged herein.

128. But for Defendant's deceptive acts and practices alleged herein, Plaintiff and the Class members would not have purchased Lululemon products, or they would not have paid as much for such products and, thus, they did not receive the benefit of the bargain, and they suffered out-of-pocket loss.

129. Defendant's violations of the FDUTPA present a continuing risk of future harm to Plaintiff and the Class members as Plaintiff would like to purchase sustainable and environmentally friendly products Lululemon promises, but only if she can rely on Defendants to be truthful in their marketing statements regarding the sustainability and environmental impact of Lululemon's products and actions.

130. Defendants should also be ordered to conduct corrective advertising to remove the halo imprinted in consumers' minds regarding Defendant's environmental actions and products.

131. Pursuant to Fla. Stat. §§ 501.211(2) and 501.2105, Plaintiff and the Class seek an award of damages, attorneys' fees, and costs.

132. Pursuant to Fla. Stat. § 501.211(1), Plaintiff and the Class seek a declaratory judgment and injunction of Defendant's unlawful acts and practices alleged herein, and an order of restitution and disgorgement." ("Without regard to any other remedy or relief to which a person is entitled, anyone aggrieved by a violation of this part may bring an action to obtain a declaratory judgment that an act or practice violates this part and to enjoin a person who has violated, is violating, or is otherwise likely to violate this part").

**WHEREFORE**, Plaintiff, individually and on behalf of the putative Classes, seeks actual damages, injunctive relief, equitable relief including declaratory relief, restitution, pre- and post-judgment interest, reimbursement of costs, attorneys' fees, and for any other relief that this Court deems just, appropriate, and proper.

## COUNT II

**Misleading Advertising,  
Fla. Stat. §§ 817.41, *et seq.*  
(On behalf of Plaintiff and the Classes)**

133. Plaintiff realleges and incorporates by reference the allegations in the above paragraphs 1 through 112 as though fully set forth herein.

134. Florida Statutes §§ 817.41, *et seq.* (the "Advertising Act"), makes it "unlawful for any person to make or disseminate or cause to be made or disseminated before the general public of the state, or any portion thereof, any misleading advertisement." Fla. Stat. § 817.41(1).

135. Florida Statutes Section § 817.40(5) defines misleading advertisements as:

[A]ny statements made, or disseminated, in oral, written, or printed form or otherwise, to or before the public, or any portion thereof, which are known, or through the exercise of reasonable care or investigation could or might have been ascertained, to be untrue or misleading, and which are or were so made or



disseminated with the intent or purpose, either directly or indirectly, of selling or disposing of real or personal property, services of any nature whatever, professional or otherwise, or to induce the public to enter into any obligation relating to such property or services.

136. As alleged herein, Defendants violated the Advertising Act by knowingly disseminating misleading advertisements to the public containing misrepresentations and omissions of material facts regarding the sustainability and environmental impact of Lululemon's products and actions.

137. Defendant's unfair or deceptive acts or practices, including its misrepresentations, concealments, omissions, and suppression of material facts, as alleged herein, had a tendency or capacity to mislead and create a false impression in consumers' minds, and were likely to and, in fact, did deceive reasonable consumers, including Plaintiff and the Class members, about the sustainability and environmental impact of Lululemon's actions and products.

138. The facts that Defendants knowingly and intentionally misrepresented, omitted, concealed, and/or failed to disclose would be considered material by a reasonable consumer, and were, in fact, material to Plaintiff and the Class members, who consider such facts to be important to their decision to pay substantial premiums to purchase products they believed to be sustainably produced with a positive impact on the environment, from a company that falsely claimed to be environmentally conscious and to be taking active steps to improve the environment.

139. Defendants owed Plaintiff and Class members a duty to not create an unfair, false, deceptive, or misleading impression concerning the sustainability and environmental impact of Lululemon's products and actions. Defendants possessed exclusive knowledge of the true facts, but intentionally concealed those facts from Plaintiff and the Class members, and/or it made misrepresentations that were rendered misleading because they were contradicted by undisclosed

facts.

140. Plaintiff and the Class members were aggrieved by Defendants' violations of the Advertising Act because they suffered ascertainable loss and actual damages as a direct and proximate result of Defendants' knowing and intentional misrepresentations, omissions, concealments, and failures to disclose material facts, as alleged herein.

141. Plaintiff and the Class members purchased Lululemon products for a premium in reliance on Defendants' misrepresentations, omissions, concealments, and/or failures to disclose material facts, as alleged herein.

142. But for Defendants' deceptive acts and practices alleged herein, Plaintiff and the Class members would not have purchased Lululemon products, or they would not have paid as much for such products and, thus, they did not receive the benefit of the bargain, and they suffered out-of-pocket loss.

143. Pursuant to Fla. Stat. § 817.41(6), Plaintiff and the Class seek an award of actual damages, punitive damages, attorneys' fees, and costs.

**WHEREFORE**, Plaintiff, individually and on behalf of the putative Classes, seeks actual damages, injunctive relief, equitable relief including declaratory relief, restitution, pre- and post-judgment interest, reimbursement of costs, attorneys' fees, and for any other relief that this Court deems just, appropriate, and proper.

### **Count III**

#### **Unjust Enrichment (On behalf of Plaintiff and the Classes)**

144. Plaintiff realleges and incorporates by reference the allegations in the above paragraphs 1 through 112 as though fully set forth herein.

145. Plaintiff pleads this claim in the alternative should she have no adequate remedy at

law.

146. Defendants requested and knowingly and voluntarily received a monetary benefit from Plaintiff and the Class members in the form of payments to purchase Defendants' deceptively marketed products, as alleged herein.

147. If Defendants had not misrepresented, omitted, concealed, and/or failed to disclose material facts regarding the sustainability and environmental impact of Lululemon's products and actions, Plaintiff and the Class members either would not have purchased Defendant's products, or purchased them at the price they paid.

148. Additionally, Defendants sold more products and made more revenue than they otherwise would have but for their misleading Be Planet campaign. Because consumers purchased Defendants' products over its competitors' products due to the Be Planet campaign, Defendants' campaign was harmful to competition and unfairly took away market share from companies that did not engage in greenwashing practices.

149. Under such circumstances, it would be unfair for Defendants to reap the benefit of unjust profits without compensating Plaintiff and the Class members for their value.

150. As such, Defendants were unjustly enriched, and Plaintiff and the Class members are entitled to restitution and disgorgement in an amount to be determined at trial.

**WHEREFORE**, Plaintiff, individually and on behalf of the putative Classes, seeks restitution, disgorgement, pre- and post-judgment interest, reimbursement of costs, and for any other relief that this Court deems just, appropriate, and proper.

#### **JURY TRIAL DEMAND**

Plaintiff demands a trial by jury on all issues so triable.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of the proposed Classes, prays for the following relief:

- A. An Order certifying the Classes, appointing Plaintiff as Class Representative, and Plaintiff's counsel as Class Counsel;
- B. An award of actual damages, compensatory damages, and punitive damages, as provided by law;
- C. An award of restitution to in an amount to be determined at trial;
- D. Disgorgement of Defendants' profits;
- E. An award of pre-judgement interest, in accordance with law;
- F. Appropriate preliminary and/or final injunctive or equitable relief;
- G. An award of the costs of suit and reasonable attorneys' fees as provided by law; and
- H. An award of such further and additional relief as is necessary to redress the harm caused by Defendants' unlawful conduct and as the Court may deem just and proper under the circumstances.

Dated: July 12, 2024

Respectfully submitted,

/s/ Chris Gold  
Chris Gold  
Florida Bar No. 088733  
**GOLD LAW, PA**  
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# **EXHIBIT A**

**IN THE MATTER OF:**

An application pursuant to s. 9(1)(b)  
of the *Competition Act*, RSC 1985, c C-34  
requesting the Commissioner cause an inquiry to be made  
into the conduct of Lululemon Athletica Inc.

February 8, 2024

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## I. OVERVIEW OF THE APPLICATION

The Applicants apply pursuant to s. 9 of the *Competition Act* (the “*Act*”) requesting the Commissioner cause an inquiry to be made into the conduct of Lululemon Athletica Inc. (“**Lululemon**”) with respect to its “*Be Planet*” marketing campaign.

Based on the information set out in this Application, the Applicants are of the opinion that Lululemon’s marketing activities constitute reviewable conduct under s. 74.01(1) of the *Act* and grounds exist for making an order against Lululemon pursuant to s. 74.1(1).

In 2020, Lululemon publicly released its “Impact Agenda” described as the company’s “stake in the ground toward an equitable, sustainable future.”<sup>1</sup> The Impact Agenda identifies three interconnected pillars of Lululemon’s “vision for success, goals and commitments and strategies.”<sup>2</sup> The third pillar of the Impact Agenda is described as follows:<sup>3</sup>

**Be planet.** Our products and actions avoid environmental harm and contribute to restoring a healthy planet.

Lululemon subsequently pursued a marketing campaign that makes public statements and presents images on its website and elsewhere that build upon and perpetuate the message that the company’s actions and products contribute to improving the environment and the restoration of a healthy planet.

In the opinion of the Applicants, this message is false and misleading.

As one of the largest apparel companies in the world, Lululemon has a significant and growing climate and environmental footprint. Its actions and products directly cause harm to the environment and the deterioration of the planet’s health. Further, since the start of the *Be Planet* campaign and in the face of a global climate crisis, the company’s greenhouse gas emissions have doubled. As well, the manufacture, transport and use of its products continue to create significant environmental harm: microplastics from Lululemon’s products are polluting our oceans and inland waters; landfills in countries around the world are collecting Lululemon’s discarded garments; fossil fuels are being used to power the factories of Lululemon’s suppliers and create their synthetic textiles; and the shipping of Lululemon’s products around the world is adding to greenhouse gas emissions as it also damages the marine environment.

The seriousness of Lululemon’s misleading representations is amplified by its position as one of Canada’s largest companies and a market leader of apparel sales in Canada. The breadth and influence of Lululemon’s public messaging is significant, not only putting a great number of

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<sup>1</sup> Lululemon, “2020 Impact Agenda” (2020) at 4, online (pdf): [https://pnimages.lululemon.com/content/dam/lululemon/www-images/Footer/Sustainability/lululemon\\_ImpactAgenda\\_October202023.pdf](https://pnimages.lululemon.com/content/dam/lululemon/www-images/Footer/Sustainability/lululemon_ImpactAgenda_October202023.pdf).

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

Canadian consumers at risk of being influenced, but also causing much unintended environmental damage from their purchases.

The Applicants acknowledge Lululemon is taking steps to reduce the harm its business and products have on the environment. This Application is not a criticism of those efforts, rather it is directed at a marketing campaign that goes too far by creating the general impression that the company's actions and products are positively contributing to the environment and a healthier planet. The Applicants are of the opinion that representations of this nature are appropriate only for companies whose true purpose is protection of the environment and removing greenhouse gases from the atmosphere.

If the Commissioner finds that materially false and misleading representations have been made, the Applicants submit that, in light of their serious nature and impact, the Commissioner should seek a judicial order pursuant to s. 74.1(1) that Lululemon:

1. Remove in its entirety the *Be Planet* marketing campaign from its website and all other public forms of communication, including removal of:
  - a. all public representations that Lululemon's products minimize or avoid environmental harm and contribute to restoring a healthy planet; and
  - b. all public representations that Lululemon has adopted practices and created solutions that minimize or avoid environmental harm and contribute to restoring the environment or a healthy planet;
2. Issue a formal apology to all its Canadian customers for providing them with false and misleading information; and
3. Pay a fine of up to 3% of Lululemon's annual worldwide gross revenues, credited to the Environmental Damages Fund and to be paid to an organization for the purposes of climate mitigation and adaptation in Canada.

These orders will prevent Canadian consumers from being misled in the future about the climate and environmental impact of Lululemon's business activities and products, deter Lululemon and other companies from making similar false and misleading representations in the future, and provide funding for reparations to address the increased climate and environmental harm caused by the manufacture, transport and use of those products purchased due to Lululemon's misrepresentations.

## II. GREENWASHING, THE COMPETITION BUREAU'S GUIDANCE AND THE APPLICABLE LEGAL PRINCIPLES

### A. The Climate Crisis, Environmental Pollution and Consumer Decision-making

The world faces severe environmental challenges associated with climate change, biodiversity loss, pollution and waste. The United Nations describes the situation as follows:<sup>4</sup>

*Today, the Earth is facing a triple planetary crisis. Climate disruption. Nature and biodiversity loss. Pollution and waste. This triple crisis is threatening the well-being and survival of millions of people around the world.*

The Supreme Court of Canada has recognized that climate change is an “existential challenge” and “a threat of the highest order to the country, and indeed the world.”<sup>5</sup> The most recent report of the United Nation’s Intergovernmental Panel on Climate Change concludes:<sup>6</sup>

*Human-caused climate change is already affecting many weather and climate extremes in every region across the globe. This has led to widespread adverse impacts on food and water security, human health and on economies and society and related losses and damages to nature and people (high confidence).*

At the recent COP28, United Nations Secretary General Antonio Guterres spoke to the urgency of addressing this crisis:<sup>7</sup>

*We are in a race against time. ..., our planet is minutes to midnight for the 1.5 degree limit. And the clock keeps ticking.*

The Organization for Economic Cooperation and Development (“OECD”) reports that the world is producing twice as much plastic as two decades ago, with the bulk ending up in landfill, incinerated or leaking into the environment, and only 9% successfully recycled.<sup>8</sup> It is estimated that 11% of global plastic waste is generated from clothing and textiles.<sup>9</sup> A 2023 report from the European Parliament estimates that the per capita consumption of textiles in the European Union required on average 400 m<sup>2</sup> of land, 9 m<sup>3</sup> of water and 391 kg of raw material.<sup>10</sup>

<sup>4</sup> United Nations, “Ambitious Action Key to Resolving Triple Planetary Crisis of Climate Disruption, Nature Loss, Pollution, Secretary-General Says in Message for International Mother Earth Day” (21 April 2022), online: <https://press.un.org/en/2022/sgsm21243.doc.htm>.

<sup>5</sup> *References re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11 at para 167.

<sup>6</sup> IPCC, “Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change” (Core Writing Team, H. Lee and J. Romero (eds.)), (2023) at 5, online (pdf): [https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC\\_AR6\\_SYR\\_FullVolume.pdf](https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_FullVolume.pdf).

<sup>7</sup> United Nations Secretary General, “Secretary-General's opening remarks at press encounter at COP28” (11 December 2023), online: <https://www.un.org/sg/en/content/sg/speeches/2023-12-11/secretary-generals-opening-remarks-press-encounter-cop28>.

<sup>8</sup> OECD, “Plastic pollution is growing relentlessly as waste management and recycling fall short, says OECD” (22 February 2022), online: <https://www.oecd.org/environment/plastic-pollution-is-growing-relentlessly-as-waste-management-and-recycling-fall-short.htm>.

<sup>9</sup> *Ibid.*

<sup>10</sup> European Parliament, “The impact of textile production and waste on the environment (infographics)” (last modified 15 November 2023), online: <https://www.europarl.europa.eu/news/en/headlines/society/20201208STO93327/the-impact-of-textile-production-and-waste-on-the-environment-infographics>.

Textile production is estimated to be responsible for about 20% of global clean water pollution from dyeing and finishing products.<sup>11</sup> Laundering synthetic clothes accounts for 35% of primary microplastics released into the environment.<sup>12</sup> A single laundry load of polyester clothes can discharge 700,000 microplastic fibres that can end up in the food chain.<sup>13</sup>

The World Health Organization identifies air pollution as one of the greatest environmental risks to health, with the main driver of the pollution, combustion of fossil fuels, also causing greenhouse gas emissions contributing to climate change.<sup>14</sup>

In light of these facts, many Canadians' concerns about the environment have caused them to shop for their apparel products sustainably, purchase planet-friendly products and avoid brands that sell products which contribute to climate change or the degradation of the planet. In other words, these issues are not only material to many Canadian consumers' purchasing decisions, they are a priority. Lululemon's own 2023 Carbon Disclosure Project report notes:<sup>15</sup>

*Consumers, particularly millennial and Gen Z consumers, are more likely to align themselves with brands who they trust to make decisions that reflect their values and benefit people and the planet.*

To avoid misleading consumers, it is therefore paramount that companies' representations regarding their contribution to the climate crisis and environmental pollution be not only truthful, but also clear and transparent.

## **B. Competition Bureau Guidance**

In recognition of companies' growing use of false or misleading environmental claims to attract consumers, the Competition Bureau has published guidance for Canadian companies. The Competition Bureau describes the problem of "greenwashing" as follows:<sup>16</sup>

*Countless Canadians are concerned about the environment and climate change. Therefore, many are looking for products and services that are less harmful to the environment. This has led to an increased demand for "green" products or services.*

*While the supply of "green" products has greatly increased in response to this demand, there has also been an increase of false or misleading environmental ads or claims, also known as greenwashing. This practice harms competition and innovation because consumers are being misled and are therefore unable to make an informed purchasing decision. Businesses who actually offer a product that has*

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<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> World Health Organization, "Air Pollution", online: [https://www.who.int/westernpacific/health-topics/air-pollution#tab=tab\\_1](https://www.who.int/westernpacific/health-topics/air-pollution#tab=tab_1).

<sup>15</sup> Lululemon Athletica Inc., "2023 Carbon Disclosure Project Report" (2023) at 7, online (pdf): <https://corporate.lululemon.com/~media/Files/L/Lululemon/our-impact/reporting-and-disclosure/lululemon-cdp-cc-2023.pdf>.

<sup>16</sup> Competition Bureau Canada, "Environmental Claims and Greenwashing" (2 December 2021), online: <https://ised-isde.canada.ca/site/competition-bureau-canada/en/environmental-claims-and-greenwashing>.

*a lower environmental impact may see their potential consumers being misled into purchasing products and services from competitors that made false or misleading claims.*

To address greenwashing, the Competition Bureau advises businesses that the laws it enforces prohibit businesses from making false or misleading environmental claims to promote a service, product or business interest.<sup>17</sup>

The Competition Bureau further advises that if businesses make environmental claims about their product or service, they should follow best practices:<sup>18</sup>

*Follow best practices by making sure that your claims:*

- *are truthful and **aren't misleading**;*
- *are **specific**: be precise about the environmental benefits of your product;*
- *are **substantiated and verifiable**: claims must be tested and all tests must be adequate and proper;*
- *do not result in misinterpretations;*
- ***do not exaggerate** the environmental benefits of your product; and*
- *do not imply that your product is **endorsed by a third-party organization** if it isn't; and,*

*If you're unsure whether a claim will mislead or misrepresent, then don't make the claim!"*

In other words, representations regarding the environment must be truthful, specific, precise, substantiated, verifiable and avoid exaggeration.

The Applicants submit that the importance of the Bureau's enforcement function is even greater when addressing concerns about environmental claims by companies who are market leaders in their industry with significant carbon and environmental footprints. The effect of these companies' misrepresentations will impact a larger number of consumers and, hence, have a greater detrimental impact on the environment.

### **C. Applicable Legal Principles**

The legal principles applicable to a determination of whether Lululemon has made false or misleading representations are not controversial and for the most part are enshrined in the *Act*. There are three main principles relevant to this application.

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<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

First, the general impression test is applicable to the inquiry to be conducted by the Commissioner into Lululemon's conduct. Section 74.03(5) of the Act establishes the applicability of the general impression test as follows:

*In proceedings under sections 74.01 and 74.02, the general impression conveyed by a representation as well as its literal meaning shall be taken into account in determining whether or not the person who made the representation engaged in the reviewable conduct.*

In the Competition Bureau's *The Deceptive Marketing Practices Digest*, the Bureau explains that "the general impression test effectively recognizes the power of the 'sum of the parts' in advertising, and ensures that the courts consider the overall impression that an advertisement as a whole makes on consumers."<sup>19</sup> Further the courts have held the general impression conveyed by a representation must be analyzed in the abstract – without considering the personal attributes of the consumer who has instituted the proceedings.<sup>20</sup> In other words, while the Commissioner may find that each environmental claim by Lululemon on its own may not be false or misleading, the Commissioner must consider all the companies representations together to consider the general impression they would leave with a consumer.

The second principle applicable to this application is that the Commissioner is not required to find that any person was misled by an environmental claim, but only that the claim was published for public view, and that it was untrue or misleading in a material respect. This principle is set out in s.74.03(4) of the *Act*. The purpose of this provision is to avoid turning the Commissioner's inquiry into an assessment of many different consumers' reactions to a company's representations and allow the Commissioner (and ultimately the court) to make the assessment of whether a representation is false, misleading and material.

Third, it is a requirement pursuant to s.74.01(1)(a) of the Act that the impugned representation be "material" to consumers' decision-making. The courts have interpreted "material" in this context as meaning "of much consequence or important or pertinent or germane or essential to"<sup>21</sup> the consumer's purchasing decision. As noted above, the Competition Bureau has already identified the materiality of environmental claims to many consumers' decisions. As stated by the Bureau, many Canadians are looking for products and services that are less harmful to the environment which has led to an increased demand for "green" products.

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<sup>19</sup> Competition Bureau Canada, *The Deceptive Marketing Practices Digest*, (6 June 2015) at 6, online (pdf): <https://isde-isde.canada.ca/site/competition-bureau-canada/sites/default/files/attachments/2022/cb-digest-deceptive-marketing-e.pdf>.

<sup>20</sup> *Richard v. Time Inc.*, 2012 SCC 8, at para 49.

<sup>21</sup> *R. v. Tege Investment Ltd.* (1978), 51 CPR (2d) 216 (AltaProvCt) at para 7.

### III. THE APPAREL INDUSTRY AND LULULEMON'S GREENHOUSE GAS EMISSIONS AND ENVIRONMENTAL POLLUTION

The apparel industry has a large global carbon and environmental footprint.

As one of the largest apparel companies in the world by market capitalization, Lululemon's carbon and environmental footprint is also substantial. It is estimated that Lululemon is valued at over \$58 billion USD.<sup>22</sup> Founded in 1998 and headquartered in Vancouver, Lululemon employs over 34,000 people, and operates over 670 stores worldwide.<sup>23</sup> In 2022, the company reported revenues of over \$8 billion USD,<sup>24</sup> with \$1.1 billion USD of those sales in Canada.<sup>25</sup>

#### A. Greenhouse Gas Emissions

##### 1. *The Apparel Industry*

It is estimated the apparel industry contributes between 1.8% to 8% of the world's greenhouse gas emissions.<sup>26</sup>

The vast majority of the apparel industry's emissions are created by its value chains.<sup>27</sup> The Greenhouse Gas Protocol, a global standardized framework to measure and manage emissions from private and public operations, classifies these value chain emissions as part of "Scope 3 emissions".<sup>28</sup> Scope 3 emissions are all indirect greenhouse gas emissions (not including generation of purchased energy) that occur in the value chain of a company, including both upstream and downstream emissions. In the apparel industry, upstream emissions include emissions from an apparel company's supply chain such as the production of raw materials,

<sup>22</sup> Forbes, "Lululemon Athletica", February 2, 2024, online: <https://www.forbes.com/companies/lululemon-athletica/?sh=6c7e9382238c>.

<sup>23</sup> Lululemon, "About Us", <https://corporate.Lululemon.com/about-us>.

<sup>24</sup> Lululemon, "2022 Annual Report" (29 January 2023), online (pdf): <https://corporate.lululemon.com/~media/Files/L/Lululemon/investors/annual-reports/lululemon-2022-annual-report.pdf>.

<sup>25</sup> Statista, "Revenue of lululemon athletica in Canada from the fiscal year of 2012 to 2022" (2024), online: <https://www.statista.com/statistics/485785/revenue-of-lululemon-canada/#:~:text=In%20the%20fiscal%20year%20of%202022%2C%20ending%20January.grown%20positively%20with%20each%20consecutive%20year%20since%202015.>

<sup>26</sup> Apparel Impact Institute, "Taking Stock of Progress Against the Roadmap to Net Zero" (June 2023) at 2, online (pdf): [https://apparelimpact.org/wp-content/uploads/2023/07/Aii\\_RoadmapReport-752.pdf](https://apparelimpact.org/wp-content/uploads/2023/07/Aii_RoadmapReport-752.pdf); McKinsey & Company, "Fashion on Climate: How the fashion industry can urgently act to reduce its greenhouse gas emissions" (2020) at 5, online (pdf): <https://www.mckinsey.com/~media/mckinsey/industries/retail/our%20insights/fashion%20on%20climate/fashion-on-climate-full-report.pdf>; Quantis, "Measuring Fashion: Insights from the Environmental Impact of the Global" (2018) at 2, online (pdf): [https://quantis.com/wp-content/uploads/2019/11/measuringfashion\\_globalimpactstudy\\_quantis\\_2018.pdf](https://quantis.com/wp-content/uploads/2019/11/measuringfashion_globalimpactstudy_quantis_2018.pdf).

<sup>27</sup> Apparel Impact Institute and World Resources Institute, "Roadmap to Net Zero: Delivering Science Based Targets in the Apparel Sector" (November 2021) at 7, online (pdf): <https://files.wri.org/d8/s3fs-public/2021-11/roadmap-net-zero-delivering-science-based-targets-apparel-sector.pdf?VersionId=LxrwUSv9dHytM7zybuQgoJ8LUHBZVgM1>.

<sup>28</sup> Greenhouse Gas Protocol, "FAQ" at 1, online (pdf): [https://ghgprotocol.org/sites/default/files/standards\\_supporting/FAQ.pdf](https://ghgprotocol.org/sites/default/files/standards_supporting/FAQ.pdf); The GHG Protocol Corporate Standard classifies a company's GHG emissions into three 'scopes'. Scope 1 emissions are direct emissions from owned or controlled sources. Scope 2 emissions are indirect emissions from the generation of purchased energy. Scope 3 emissions are all indirect emissions (not included in scope 2) that occur in the value chain of the reporting company, including both upstream and downstream emissions.



transportation and distribution. Downstream emissions include emissions from the use and disposal of the apparel products.<sup>29</sup>

Based on a study of apparel and footwear brands, the Apparel Impact Institute and World Resources Institute calculated that 96% of the industry's total greenhouse gas emissions are Scope 3 emissions, with 80% of those generated from upstream manufacturing, production, and raw materials.<sup>30</sup> In order to stay within a 1.5C aligned trajectory, the Apparel Impact Institute projects the industry must reduce its emissions by at least 45 percent by 2030.<sup>31</sup> In other words, to be a part of the world's climate change solution, apparel companies must make significant cuts to their absolute emissions, including emissions from their supply chains.

## 2. Lululemon

The great majority of Lululemon's greenhouse gas emissions are Scope 3 emissions created by its supply chain.<sup>32</sup> Since Lululemon launched its *Be Planet* marketing campaign in 2020, rather than seeing a reduction in Lululemon's greenhouse gas emissions, those emissions have increased significantly. Lululemon's own reporting indicates that its reported Scope 3 emissions have more than doubled since 2020, as follows:<sup>33</sup>

- 2020: 829,456 tCO<sub>2</sub>e<sup>34</sup>
- 2021: 1,343,649 tCO<sub>2</sub>e<sup>35</sup>
- 2022: 1,691,009 tCO<sub>2</sub>e<sup>36</sup>

Lululemon's 2022 emissions are the equivalent of burning of over 720 million litres of gasoline, over 3.8 million barrels of oil or the fueling of over 518,000 passenger vehicles for a year.<sup>37</sup>

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<sup>29</sup> World Resources Institute and Science Based Targets initiative, "Apparel and Footwear Sector: Science-Based Targets Guidance" at 4 and 25, Figure 8, online (pdf): **Error! Hyperlink reference not valid.**[https://sciencebasedtargets.org/resources/files/SBT\\_App\\_Guide\\_final\\_0718.pdf](https://sciencebasedtargets.org/resources/files/SBT_App_Guide_final_0718.pdf).

<sup>30</sup> Apparel Impact Institute and World Resources Institute, *supra* note 27, at 7.

<sup>31</sup> Apparel Impact Institute, *supra* note 26 at 3.

<sup>32</sup> Based on information in Lululemon's 2022 Impact Report, it was calculated that Lululemon's Scope 3 emissions comprised 99.7% of its total emissions: Lululemon, "2022 Impact Report" at 50, online (pdf): <https://corporate.lululemon.com/~media/Files/L/Lululemon/our-impact/reporting-and-disclosure/2022-lululemon-impact-report.pdf>.

<sup>33</sup> Lululemon's reporting omits certain Scope 3 emissions categories and therefore these values do not represent the entirety of the company's emissions: *Ibid*, at 79.

<sup>34</sup> Lululemon, "2020 Impact Report" at 59, online (pdf): <https://corporate.lululemon.com/~media/Files/L/Lululemon/our-impact/our-impact-agenda/2020-full-impact-report.pdf>.

<sup>35</sup> Lululemon, "2021 Impact Report" at 67, online (pdf): <https://corporate.lululemon.com/~media/Files/L/Lululemon/our-impact/reporting-and-disclosure/2022-lululemon-impact-report.pdf>.

<sup>36</sup> 2022 Impact Report" *supra* note 32 at 79.

<sup>37</sup> Natural Resources Canada, "Greenhouse Gas Equivalencies Calculator" online: <https://oee.nrcan.gc.ca/corporate/statistics/neud/dpa/calculator/ghg-calculator.cfm#results>.



It appears these emissions will continue to increase significantly as Lululemon has a stated goal of doubling its 2021 revenue by 2026,<sup>38</sup> which will mean increased apparel manufacturing through its supply chain, and a corresponding increase in Scope 3 emissions.

Significantly, many of Lululemon's products are made with polyester and nylon, which are manufactured from fossil fuels.<sup>39</sup> Further, over 80% of Lululemon's manufacturers and suppliers are located in countries with significant fossil fuel reliance and minimal grid renewables, including Vietnam, Cambodia, Sri Lanka, Bangladesh, and Indonesia.<sup>40</sup> Vietnam, for example, is the location from which Lululemon sources most of its products (39%).<sup>41</sup> Vietnam, however, is reported to have the fastest growth in coal use of all countries in Southeast Asia, at an annual growth rate of 11%.<sup>42</sup> It is also reported that in 2021, coal accounted for 47% of the country's electricity generation mix<sup>43</sup> and, from 2017 to 2020, Vietnam's carbon emissions increased by over 50%.<sup>44</sup>

Additionally, while Lululemon represents that it is committed to working with its suppliers to increase use of renewable energy and eliminate on-site coal boilers,<sup>45</sup> such representations are not readily verifiable. Many of Lululemon's largest suppliers do not publish information relating to their coal usage or plans to switch to renewable energy. For example, Tan De Co Ltd., which the Applicants have identified as one of Lululemon's largest suppliers, does not publicly report using any renewable energy to power its factories, has not set public targets to reduce its emissions, and does not have a published plan to phase out coal use. If an inquiry into Lululemon's representations is undertaken, the Applicants request the Commissioner obtain from Lululemon their suppliers' past and present environmental reporting, including information relating to their reliance on coal and plans to switch to renewable energy.

The detrimental impact of Lululemon's products and actions on the environment is further increased by the company's use of air and marine freight to transport its products.

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<sup>38</sup> Lululemon, "lululemon Announces Five-Year Growth Plan to Double Revenue by 2026 to \$12.5 Billion" (20 April 2022), online: <https://corporate.lululemon.com/media/press-releases/2022/04-20-2022-113017957#:~:text=Leveraging%20its%20proven%20formula%20and%20supported%20by%20the,including%20product%20innovation%2C%20guest%20experience%2C%20and%20market%20expansion.>

<sup>39</sup> Gelfand Center, Carnegie Mellon University, "Natural vs. Synthetic Polymers" online: <https://www.cmu.edu/gelfand/lgc-educational-media/polymers/natural-synthetic-polymers/index.html>.

<sup>40</sup> Annual Report, 2022 *supra* note 24 at 5, In 2022, approximately 39% of their products were made in Vietnam, 14% in Cambodia, 12% in Sri Lanka, 8% in Bangladesh, and 7% in Indonesia, and the remainder in other regions.

<sup>41</sup> *Ibid.*

<sup>42</sup> Thang Nam Do and Paul J. Burke, "Phasing out coal power in a developing country context: Insights from Vietnam" (2023) 176 *Energy Policy* at 1, online: <https://www.sciencedirect.com/science/article/pii/S0301421523000976?via%3Dihub>.

<sup>43</sup> *Ibid* at 2.

<sup>44</sup> MacroTrends, "Vietnam Carbon (CO<sub>2</sub>) Emissions 1990-2024" online: <https://www.macrotrends.net/countries/VNM/vietnam/carbon-co2-emissions>.

<sup>45</sup> 2022 Impact Report, *supra* note 32 at 51.

Air freight creates approximately forty-seven times more CO<sub>2</sub> emissions than marine freight per ton-mile.<sup>46,47</sup> Accordingly, a company such as Lululemon that represents itself as taking actions which contribute to a healthy planet would, reasonably, be expected minimize the use of air freight to prioritize the health of the planet. However, when faced with supply chain difficulties caused by the COVID-19 pandemic, Lululemon chose the opposite. Lululemon chose to significantly increase its use of air freight, in disregard for the increased detrimental impacts on the environment. Lululemon explains the shift to air freight in its 2022 Impact Report:<sup>48</sup>

“Early in 2022, the COVID-19 pandemic contributed to ongoing supply chain disruptions. As a result, we experienced longer lead times and delivery challenges, including pressure on ocean freight and seaports. This meant continued use of increased air freight in the first half of 2022, impacting our Scope 3 target performance,”

Notably, a study that assessed the use of air freight by major companies in the apparel industry highlighted Lululemon’s high use of air freight. The study found that Lululemon transports by air freight approximately 30% of its products manufactured in Vietnam and Sri Lanka. In contrast, competitors such as Nike, Adidas and Puma transported less than 5% of their products from Vietnam by air.<sup>49</sup> In other words, while Lululemon’s competitors achieve some balance between the use of environmentally harmful air freight and protection of the planet, Lululemon pursues a significantly more aggressive air freight strategy.

## **B. Pollution and Waste**

### ***1. The Apparel Industry***

The pollution and waste created by the apparel industry is well documented.

Between 80 to 100 billion new clothing garments are produced globally every year,<sup>50</sup> with an increasing amount of these garments being made from synthetic fabrics such as nylon, acrylic, and polyester – materials made from plastic.<sup>51</sup> When these materials are washed, they release plastic

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<sup>46</sup> Vitality, “Air Freight vs Sea Freight Carbon Footprint: Which is Lower?” (2022), online: <https://vitality.io/air-freight-vs-sea-freight-carbon-footprint/#:~:text=Airfreight%20generates%2047%20times%20more,10%2D40%20grams%20per%20kilometer>.

<sup>47</sup> Per the OECD, in addition to releasing CO<sub>2</sub> emissions at high altitude, “In the upper troposphere (up to 10 kilometres), where most aircraft miles are logged, NO<sub>x</sub> emissions may react with other gases to form ozone, which is a potent greenhouse gas at this altitude. Although aviation accounts for only two per cent of global NO<sub>x</sub> emissions, their discharge directly into the upper troposphere may greatly increase their impact on ozone formation.” OECD, “The Environmental Effects of Freight” (1997) at 19, online (pdf): <https://www.oecd.org/environment/envtrade/2386636.pdf>.

<sup>48</sup> 2022 Impact Report *supra* note 32 at 52.

<sup>49</sup> PublicEye, “Following in Zara’s slipstream: the airborne fashion of other brands”, (December 18, 2023) online: <https://www.publiceye.ch/en/news/detail/following-in-zaras-slipstream-the-airborne-fashion-of-other-brands>.

<sup>50</sup> TheRoundup.org, “17 Most Worrying Textile Waste Statistics & Facts”, (updated 11 April 2023), online: <https://theroundup.org/textile-waste-statistics/>.

<sup>51</sup> Aravin Prince Periyasamy, Ali Tehrani-Bagha, “A review on microplastic emission from textile materials and its reduction techniques” (2022) 199, *Polymer Degradation and Stability*, online: <https://www.sciencedirect.com/science/article/pii/S0141391022000878>.

fibres into the water that flow into our rivers and oceans.<sup>52</sup> Researchers estimate that every year clothing releases 500,000 tonnes of microfibers into the ocean – the equivalent of more than 50 billion plastic bottles.<sup>53</sup> Microplastic pollution is one of the most pervasive environmental issues, raising concerns about water quality, effects on ecosystems and human health.<sup>54</sup>

The heavy use of synthetic materials in textiles makes many apparel products impossible to recycle.<sup>55</sup> It is estimated that the world produces 92 million tons of textile waste every year, with clothing and textiles making up at least 7% of the total amount of waste in global landfill space.<sup>56</sup> Synthetic fibres are non-biodegradable and can sit in landfills for up to 200 years.<sup>57</sup>

The textile sector was the third largest source of water degradation and land use in 2020. In that year, it took on average nine cubic metres of water, 400 square metres of land and 391 kilograms of raw materials to provide clothes and shoes for each EU citizen.<sup>58</sup>

Water scarcity is also a growing global problem, with an estimated 2.3 billion people living in water-stressed countries in 2018.<sup>59</sup> The apparel industry compounds this problem by using large amounts of fresh water throughout the production and manufacturing process.<sup>60</sup>

Marine freight transport of apparel products also causes significant damage to the planet's inland and ocean environments. According to the OECD:<sup>61</sup>

“Shipping poses threats to the environment both on inland waterways and on the ocean. These problems come from six major sources; routine discharges of oily bilge and ballast water from marine shipping; dumping of non-biodegradable solid waste into the ocean; accidental spills of oil, toxics or other cargo or fuel at ports and while underway; air emissions from the vessels' power supplies; port and inland channel construction and management; and ecological harm due to the introduction of exotic species transported on vessels.”

## 2. *Lululemon*

The Applicants are of the opinion Lululemon's actions and products also cause harm to the environment in ways discussed above.

<sup>52</sup> Concordia Precious Plastic Project, “Microplastic Pollution and the Fast Fashion Industry” online:

<https://www.cp3montreal.com/articles/microplastic-pollution-and-the-fast-fashion-industry>.

<sup>53</sup> *Ibid.*

<sup>54</sup> OECDiLibrary, “Policies to Reduce Microplastics Pollution in Water : Focus on Textiles and Tyres” (20 October 2021), online: <https://www.oecd-ilibrary.org/sites/92f53a72-en/index.html?itemId=/content/component/92f53a72-en#section-d1e390>.

<sup>55</sup> Concordia, *supra* note 52.

<sup>56</sup> TheRoundup.org, *supra* note 50.

<sup>57</sup> Concordia, *supra* note 52.

<sup>58</sup> European Parliament, *supra* note 10.

<sup>59</sup> United Nations Statistics Division, SDG 6 “Clean Water and Sanitation: Ensure availability and sustainable management of water and sanitation for all”, online: <https://unstats.un.org/sdgs/report/2021/goal-06/#:~:text=In%202018%2C%202.3%20billion%20people.by%20over%202%20per%20cent.>

<sup>60</sup> Lululemon's 2022 Impact Report, *supra* note 32 at 66.

<sup>61</sup> OECD, Environmental Effects of Freight *supra* note 47 at 11.

Based on information available to the Applicants, they understand Lululemon relies heavily on synthetic fabrics in their products, with polyester and nylon representing over 60% of the company's material mix.<sup>62</sup> Accordingly, based on the sources noted above, when Lululemon's polyester and nylon products are washed by consumers, significant amounts of microplastics are released. Further, while Lululemon claims that it is converting to recycled polyester and nylon in its products<sup>63</sup>, experts do not consider these products to be a truly sustainable alternative as they are energy intensive to manufacture, do not biodegrade and still release microplastics.<sup>64</sup> A 2021 study found that washing knitted recycled polyester fabric, which is used by Lululemon<sup>65</sup>, shed 2.3 times more microfibrils than virgin polyester.<sup>66</sup>

It is also likely that many millions of Lululemon's products also end up in landfills. Lululemon sells millions of garments each year. Many of Lululemon's products are made of synthetic textile materials that cannot or are not recycled,<sup>67</sup> meaning they contribute to the 92 million tons of textile waste filling landfills around the world every year.<sup>68</sup>

Additionally, in 2022, Lululemon reported that their priority suppliers, which produce approximately 84% of Lululemon's production value, used 29.2 billion litres of freshwater.<sup>69</sup>

Finally, as discussed above, Lululemon's supply chain sources its products from countries that rely heavily on fossil fuels, including coal.<sup>70</sup> Not only does combustion of coal emit greenhouse gases, but it also emits toxic and carcinogenic pollutants into the air, water, and land. In fact, coal is so detrimental to the environment that the UN Secretary General António Guterres has urged governments and private companies alike to end their reliance on coal, calling this "the single most important step to get in line with the 1.5-degree goal of the Paris Agreement".<sup>71</sup>

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<sup>62</sup> Lululemon's 2022 Impact Report *supra* note 32 at 55.

<sup>63</sup> *Ibid* at 55-58.

<sup>64</sup> Veronica Bates Kassatly and Dorothee Baumann-Pauly, "The Great Greenwashing Machine - Part 2: The Use and Misuse of Sustainability Metrics In Fashion" *Eco-Age*, online (pdf): [https://eco-age.com/wp-content/uploads/2022/03/Great-Green-Washing-Machine-Report-Part-2\\_FINAL.pdf](https://eco-age.com/wp-content/uploads/2022/03/Great-Green-Washing-Machine-Report-Part-2_FINAL.pdf), see p. 33-39.

<sup>65</sup> See for example: Shop.Lululemon.com, "Boxy Knit T-Shirt" online: [https://shop.lululemon.com/p/womens-t-shirts/Boxy-Knit-T-Shirt-MD/\\_/prod11450233](https://shop.lululemon.com/p/womens-t-shirts/Boxy-Knit-T-Shirt-MD/_/prod11450233). This Boxy Knit T-shirt is described as smooth, knit fabric and is made with 100% recycled polyester.

<sup>66</sup> İlkan Özkan & Sedat Gündoğdu, "Investigation on the microfiber release under controlled washings from the knitted fabrics produced by recycled and virgin polyester yarns" (2021) *The Journal of The Textile Institute*, 112:2, 264-272, online: <https://www.tandfonline.com/doi/full/10.1080/00405000.2020.1741760>.

<sup>67</sup> Concordia, *supra* note 52.

<sup>68</sup> TheRoundup.org, *supra* note 50.

<sup>69</sup> Lululemon's 2022 Impact Report, *supra* note 32 at 66.

<sup>70</sup> *Ibid* at 40, 41, 42 and 43. Also, Lululemon reports that in 2022, only 15 percent of electricity used by their manufacturers and materials suppliers came from renewable sources. While Lululemon claims to be committed to eliminating on-site use of coal, coal boilers continue to be used by their suppliers. See: 2022 Impact Report *supra* note 32 at 51.

<sup>71</sup> United Nations Climate Change, "UN Chief Calls for Immediate Global Action to Phase Out Coal"(2 March 2021), online: <https://unfccc.int/news/un-chief-calls-for-immediate-global-action-to-phase-out-coal>.

#### IV. THE APPLICANTS' OPINION WHY LULULEMON'S PUBLIC REPRESENTATIONS ARE FALSE AND MISLEADING IN A MATERIAL RESPECT

As mentioned, Lululemon commenced its *Be Planet* marketing campaign in 2020.<sup>72</sup> The contradiction between the messaging in Lululemon's *Be Planet* marketing campaign and the actual environmental impact of Lululemon's actions and products is stark. The discussion below identifies examples of Lululemon's public and material representations and provides the Applicants' opinion regarding why these representations are false and misleading in material respects. Copies of the representations in the form they are presented to the public are included in **Appendix A**.

In the Applicants' opinion, Lululemon makes four types of false or misleading public representations in the context of the *Be Planet* marketing campaign: (i) direct, unqualified environmental claims about the company's products and actions; (ii) environmental claims that overemphasize minor environmental benefits to deflect attention away for the substantial environmental harm caused by the company's activities and products; (iii) environmental claims relating to the company's greenhouse gas emission "targets"; and (iv) environmental claims about the company's "vision", "goals" or "commitments". Individually, many of the representations on their own are false or misleading. Taken together, the representations create a general impression that is false and misleading.

##### 1. Direct, unqualified environmental claims that are false or misleading

Source	Representation
<a href="#">Lululemon Impact Summary 2020, p. 9</a> <i>Appendix A, p. 24</i>	<u>Our lives are one with the health of the planet.</u> Our products and actions avoid environmental harm and contribute to restoring a healthy planet.
Lululemon website: <a href="#">Our Impact</a> <i>Appendix A, p. 25</i>	Our products and actions avoid environmental harm and contribute to restoring a healthy planet.

<sup>72</sup> Lululemon - Press Releases "lululemon athletica Inc. Releases Impact Agenda, Unveiling its Social and Environmental Goals and Strategies to Create a Healthier Future" (28 October 2020), online: <https://corporate.lululemon.com/media/press-releases/2020/10-28-2020-085826103>.

<p>Lululemon website: <a href="#">Our Planet</a></p> <p><i>Appendix A, p. 26</i></p>	<p>By adopting and evolving practices and mindful solutions, we enhance the products we offer and contribute to restoring the environment.</p>
<p>Lululemon website: <a href="#">Better Products</a></p> <p><i>Appendix A, p. 27</i></p>	<p>We're adopting practices and creating solutions that enhance our products, minimize negative impact, and contribute to restoring the environment.</p>
<p><a href="#">Lululemon Impact Report 2022</a> p. 46</p> <p><i>Appendix A, p. 28</i></p>	<p>We work across our value chain to reduce our carbon and water footprint, improve chemical management, develop and sell products that reflect the values of our guests, and contribute to a healthier environment.</p>
<p><a href="#">Lululemon Impact Agenda 2020</a>, p. 25</p> <p><i>Appendix A, p. 29</i></p>	<p>We envision a future where we thrive within the limits of our one planet. That is why we act to avoid environmental harm and contribute to restoring a healthy planet.</p>

In summary, Lululemon publicly represents that its practices, solutions, products and actions contribute to restoring the environment and a healthy planet. However, as outlined above, the evidence available to the Applicants portrays a much different company. Instead of restoring the environment and a health planet, the evidence indicates:

- Lululemon is a part of a global industry that contributes between 1.8% to 8% of the world's greenhouse gas emissions,<sup>73</sup> the vast majority of which are created by its value chains.<sup>74</sup>
- The Lululemon has an enormous supply chain that produces substantial greenhouse gas emissions and that, since making its *Be Planet* commitments, its Scope 3 emissions have more than doubled to 1,691,009 tCO<sub>2</sub>e.<sup>75</sup> It is also expected these emissions will continue to increase as Lululemon has a stated goal of doubling its 2021 revenue by 2026.<sup>76</sup>

<sup>73</sup> [Apparel Impact Institute](#) (Aii), [McKinsey](#) and [Quantis](#), *supra* note 26.

<sup>74</sup> Apparel Impact Institute and World Resources Institute, *supra* note 27, at 7.

<sup>75</sup> 2022 Impact Report, *supra* note 32 at 79.

<sup>76</sup> Lululemon, "Five-Year Growth Plan", *supra* note 38.

- The products most heavily relied upon by Lululemon in their material mix – polyester and nylon – are produced from fossil fuels and are known to release significant amounts of microplastics into the planet’s oceans and inland waters when washed.
- Lululemon chooses to transport a higher percentage of its products by air freight than its competitors, despite knowing air freight generates significantly more greenhouse gas emissions than marine shipping.<sup>77</sup>
- Lululemon’s supply chain operations used more than 29 billion litres of freshwater in 2022.<sup>78</sup>
- A significant (but unknown to the Applicants) amount of Lululemon’s garments and packaging end up in landfills each year.

Lululemon also publicly represents:

- We work across our value chain to reduce our carbon ...footprint, ..., develop and sell products that reflect the values of our guests, and contribute to a healthier environment.<sup>79</sup>

This representation, however, is inconsistent with the following evidence:

- Lululemon’s Scope 3 emissions, which make up more than 99% of the company’s carbon footprint, have more than doubled since 2020.<sup>80</sup>
- The great majority of Lululemon’s supply chain is located in countries with a heavy fossil fuel reliance and minimal grid renewables, including Vietnam, Cambodia, Sri Lanka, Bangladesh, and Indonesia.<sup>81</sup>
- Vietnam is the location from which Lululemon sources most of its products (39%).<sup>82</sup> Vietnam is reported to have the fastest growth in coal use of all countries in Southeast Asia, at an annual growth rate of 11%.<sup>83</sup> In 2021, coal accounted for 47% of the country’s electricity generation.<sup>84</sup> Further, from 2017 to 2020, Vietnam’s carbon emissions increased by over 50%.<sup>85</sup>

Finally, the imagery Lululemon uses in combination with its messaging contributes to the false and misleading nature of the *Be Planet* marketing campaign. Pictures of rivers, healthy forests and

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<sup>77</sup> Public Eye, *supra* note 49.

<sup>79</sup> 2022 Impact Report, *supra* note 32 at 46.

<sup>79</sup> 2022 Impact Report, *supra* note 32 at 46.

<sup>80</sup> 2022 Impact Report, *supra* note 32 at 79.

<sup>81</sup> Annual Report, 2022 *supra* note 24 at 37. In 2022, approximately 39% of their products were made in Vietnam, 14% in Cambodia, 12% in Sri Lanka, 8% in Bangladesh, and 7% in Indonesia, and the remainder in other regions.

<sup>82</sup> *Ibid.*

<sup>83</sup> Do and Burke, *supra* note 42.

<sup>84</sup> *Ibid.*

<sup>85</sup> MacroTrends, *supra* note 44.



nature<sup>86</sup> do not accurately reflect the nature of Lululemon's business or the impact of its activities and products on the environment.

## 2. Environmental claims that overemphasize minor environmental benefits

Lululemon uses its substantial marketing presence to overemphasize the significance of certain environmental initiatives that provide only minor improvements or benefit relative to the company's overall climate and environmental footprint. The effect of this type of marketing deflects attention away from the significant environmental harm caused by Lululemon's business, and leaves consumers with the general impression that Lululemon is a planet-friendly company. Examples of this type of representation are as follows:

Source	Representation
Lululemon website: <a href="#">Like New</a>  <i>Appendix A, p. 30</i>	<p><b>Getting after our goals.</b></p> <p>Like New is one of lululemon's commitments to help restore the environment. It lengthens the lifecycle of our gear that's built to be reused and recycled. We also are on track to make 100% of our products with sustainable materials by 2030, and as of 2021, we're sourcing 100% renewable electricity for our owned and operated facilities.</p>
Lululemon website: <a href="#">Like New</a>  <i>Appendix A, p. 31</i>	<p><b>Good feelings all around.</b></p> <p>What's better than great finds on gently used lululemon gear? Knowing you're helping restore a healthier planet.</p>
Lululemon Press Release: <a href="#">lululemon Delivers on its Impact Agenda Commitments with Two New Sustainability Initiatives Launching in May</a>  <i>Appendix A, p. 32</i>	<p>The new initiatives are the latest efforts from the brand under its Be Planet pillar, which is focused on making products that are better in every way for people and the planet.</p> <p>Lululemon is actively working to help create a healthier future, ...</p>

<sup>86</sup> See images found in Appendix A.



It should be noted that this Application is not a criticism of the efforts Lululemon is making to reduce the harm its business and products have on the environment. The Applicants acknowledge Lululemon is making efforts to decrease the amount of virgin polyester in its products, increase the energy efficiency of its stores, reduce of water-use intensity and water pollution, develop an apparel re-use program, and reduce single-use plastic. The Applicants do not say it is misleading for a company to describe the efforts it is taking to reduce harm to the environment. However, it is misleading for a company to go further and use these efforts to create the impression they are positively contributing to a healthier planet.

An example of how Lululemon overemphasizes its environmental harm reduction efforts is found in the messaging around its 'Like New' program.<sup>87</sup> This marketing uses the relatively minor harm reduction benefits of this program to repeat and emphasize the message that Lululemon is "helping restore a healthier planet". For example, Lululemon's website states:<sup>88</sup>

## **Good feelings all around.**

What's better than great finds on gently used lululemon gear? Knowing you're helping restore a healthier planet.

While this program may lead to some relatively minor reductions in environmental harm caused by the company, the Applicants are of the view it is false and misleading to use the program to suggest that a consumer who takes part is "helping restore a healthier planet." Significantly, the program is not well-designed to achieve significant circularity. Products have to be returned in 'like new' condition, and gift cards given in exchange for 'like new' products can only be used on new items. In other words, while potentially promoting the use of some clothes for longer periods of time, the program is also promoting increased consumption of new clothes. While some discarded clothing may avoid the landfill for a few years, nothing about the program will "restore a healthier planet".

There is also a lack of full disclosure and accountability associated with the program. Lululemon discloses no information about the total amount of their products sold in Canada or worldwide that are disposed into landfills or the relative proportion of products returned through this program that are resold.

The Lululemon 'Like New' website also contains the following representation:<sup>89</sup>

## **Getting after our goals.**

Like New is one of lululemon's commitments to help restore the environment. It lengthens the lifecycle of our gear that's built to be reused and recycled. We also

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<sup>87</sup> Lululemon Like New, online: <https://likenew.lululemon.com/about?icid=sep-06:homepage:hero:3:middle:about:lp>.

<sup>88</sup> *Ibid.*

<sup>89</sup> *Ibid.*

are on track to make 100% of our products with sustainable materials by 2030, and as of 2021, we're sourcing 100% renewable electricity for our owned and operated facilities.

There are a number of issues with this statement.

First, for the same reasons discussed above, there is nothing about the program that will “restore the environment”. Rather, at best, the program will lead to some reduction to the tonnes of Lululemon apparel products that will end up in landfills.

Second, the statement that Lululemon is “on track to make 100% of our products with sustainable materials by 2030,” fails to mention the extent of “sustainable” material that will be used in each product. In other words, Lululemon does not mention that *each* of its products will not be 100% made from “sustainable” products or how little of each product will be comprised of such materials. Further and for the reasons discussed above, Lululemon’s products, even if made with recycled polyester or nylon will still cause environmental harm.<sup>90</sup>

Finally, Lululemon states “we’re sourcing 100% renewable electricity for our owned and operated facilities.” Lululemon, however, fails to also advise the consumer how little this achievement reduces the company’s total greenhouse gas emissions. A fully transparent representation would advise consumers that Lululemon’s owned and operated facilities have only ever made up an extremely small percentage of the company’s greenhouse gas emissions, whereas the company’s Scope 3 greenhouse gas emissions made up over 99.7% of the company’s emissions in 2022,<sup>91</sup> and are increasing.

### **3. Environmental claims relating to the company’s greenhouse gas emission targets that are misleading**

The manner in which Lululemon publicly represents its plans to reduce its greenhouse gas emissions omits material information which makes those claims misleading. Examples of these types of claims are as follows:

Source	Representation
Lululemon website: <a href="#">Our Planet</a>  <i>Appendix A, p. 33</i>	<b>Climate Action</b>  Meet our 2030 science-based climate targets by achieving: <ul style="list-style-type: none"> <li>• 60% absolute reduction of greenhouse gas (GHG) emissions in</li> </ul>

<sup>90</sup> If Lululemon includes rPET (recycled polyester) material within its definition of sustainable material, there are significant environmental issues with its use as discussed earlier in the document.

<sup>91</sup> 2022 Impact Report *supra* note 32 at 50.

	<p>all owned and operated facilities<sup>2</sup> (Scope 1 and 2)</p> <ul style="list-style-type: none"> <li>60% intensity reduction of GHG emissions across our global supply chain<sup>3</sup> (Scope 3)</li> </ul>
<p>Lululemon website: <a href="#">Our Planet</a></p> <p><i>Appendix A, p. 33</i></p>	<p>Goal Met: Achieve 100% renewable electricity to power owned and operated facilities by 2021</p>
<p><a href="#">Lululemon Impact Agenda 2020</a>, p. 32</p> <p><i>Appendix A, p. 34</i></p>	<p>We're working toward a carbon-neutral future, starting with cutting our own emissions across our value chain and supporting a global movement for action.</p>
<p><a href="#">Lululemon Impact Agenda 2020</a>, p. 32</p> <p><i>Appendix A, p. 34</i></p>	<p>By 2030, we will decarbonize our value chain, meeting ambitious science-based targets.</p>
<p>Lululemon website: <a href="#">Climate Action</a></p> <p><i>Appendix A, p. 35-36</i></p>	<p>We are making progress on our climate goals around carbon reduction.</p>

As an example of how Lululemon misrepresents through omission, the entirety of the first representation from the table above is set out below and discussed:<sup>92</sup>

### **Climate Action**

Meet our 2030 science-based climate targets by achieving:

- 60% absolute reduction of greenhouse gas (GHG) emissions in all owned and operated facilities<sup>2</sup> (Scope 1 and 2)
- 60% intensity reduction of GHG emissions across our global supply chain<sup>3</sup> (Scope 3)

Goal Met: Achieve 100% renewable electricity to power owned and operated facilities by 2021

Become a net-zero company by 2050<sup>4</sup>

<sup>92</sup> Lululemon, "Our Planet", online: <https://corporate.lululemon.com/our-impact/our-planet>.

<sup>2</sup> Owned and operated refers to where lululemon has direct operational control. This goal refers to Scope 1 and 2 emissions.

<sup>3</sup> Includes purchased goods and services, and upstream transportation and distribution only. Intensity reduction is per net revenue from operations.

<sup>4</sup> The Science Based Target Initiative's Net-Zero standard requires companies to cut emissions by >90% and use permanent carbon removal and storage to counterbalance the final <10% of residual emissions that cannot be eliminated. We are submitting our application for SBTi's Net-Zero Standard certification in 2023.

There are three serious issues with this representation.

First, Lululemon presents its 60% Scope 1 and 2 emission reduction targets first, without mentioning that these emissions comprise only about 0.3% of Lululemon's total greenhouse gas emissions. In other words, the website fails to explain that achieving this goal will have a negligible impact on Lululemon's overall greenhouse gas emissions. Instead, by presenting the Scope 1 and 2 emission reduction targets in this manner, Lululemon creates the general (and false) impression that it is targeting significant greenhouse gas reductions.

Second, Lululemon presents the reduction targets for its Scope 3 emissions as "intensity" based rather than absolute. As the ultimate stated goal is to become a "net-zero company by 2050", intensity based targets provide limited, and potentially misleading, information, particularly in circumstances in which a company is planning for significant sales growth. The misleading impression left by this representation is that Lululemon's greenhouse gas emissions will be reducing towards net-zero when they are, in fact, increasing. If Lululemon attains its revenue growth targets for 2026,<sup>93</sup> then it is likely the company's Scope 3 emissions will continue to increase. The problems and controversial nature of "intensity-based" emission reduction targets is well-recognized. The Columbia Center on Sustainable Development reports:<sup>94</sup>

"GHG reduction targets set by companies can be based on absolute emissions or on emissions intensity. An absolute target consists of a set number of metric tons of emissions, usually expressed in CO<sub>2</sub>-equivalent (CO<sub>2</sub>e) to account for CO<sub>2</sub> as well as other GHGs. Often this number is indicated as a percentage of emissions relative to a selected base year. For example, a cement company analyzed set a 2030 goal to reduce its GHG emissions by 28% relative to its selected base year of 2007. In turn, intensity-based targets measure metric tons of CO<sub>2</sub>e per unit of production. Another cement company pledged to reduce its emissions intensity to below 520 kg CO<sub>2</sub>e per metric ton of output by 2030. *Intensity-based decarbonization goals are controversial, as they do not guarantee absolute emissions reductions.* If a company's emissions intensity decreases, but its production volume increases at a greater rate, its annual GHG emissions may still increase. Accordingly, absolute targets are preferable: a company that sets and achieves an absolute emissions target will shrink its carbon footprint, even if its production increases." [italics added]

<sup>93</sup> Lululemon, "Five-Year Growth Plan", *supra* note 38.

<sup>94</sup> Jack Arnold and Perrine Toledano, "Corporate Net-Zero Pledges: The Bad and the Ugly" *Columbia Center on Sustainable Development*, (1 December 2021), online: <https://ccsi.columbia.edu/news/corporate-net-zero-pledges-bad-and-ugly>.

Finally, despite Lululemon’s many representations about being committed to restoring a healthy planet, Lululemon is not even on track to meet its own Scope 3 emission reduction target. In its most recent Impact Report, Lululemon reports that progress towards the target is not on track.<sup>95</sup> The intensity of the company’s Scope 3 emissions has only decreased by 7%. The report notes that this environmental initiative “needs acceleration”.<sup>96</sup>

In addition to its misleading presentation of its SBTi targets, Lululemon makes numerous general claims regarding its carbon emissions, including that it is working toward a carbon-neutral future, that it is decarbonizing its value chain, and that it is making progress on its climate goals. These statements create the misleading impression that Lululemon is reducing carbon emissions across its supply chain. This impression is directly contrary to the fact that Lululemon’s carbon emissions increased significantly since the *Be Planet* marketing campaign was started, with its total Scope 3 emissions having doubled between 2020 and 2022.

#### 4. Environmental claims about the company’s “vision”, “goals” or “commitments” that are unrealistic

Examples of these types of claims are set out below.

Source	Representation
<a href="#">Lululemon Impact Agenda 2020</a> , p. 4  <i>Appendix A, p. 37</i>	<b>Be Planet.</b> Our products and actions avoid environmental harm and contribute to restoring a healthy planet.
Lululemon Website: <a href="#">Be Planet</a>  <i>Appendix A, p. 25</i>	We’re committed to making products that are better in every way-for ...the planet.

Through these statements, Lululemon promises its customers that its products and actions avoid environmental harm, contribute to the restoration of a healthy planet and are better in every way for the planet. At the same time, however, Lululemon is an apparel company with an enormous supply chain based in countries such as Vietnam, Cambodia, Sri Lanka, Bangladesh, and Indonesia that produces substantial, and increasing, amounts of greenhouse gas emissions in the course of manufacturing millions synthetic textile apparel products that are packaged and transported to Lululemon’s many stores around the world.

<sup>95</sup> 2022 Impact Report *supra* note 32 at 47.

<sup>96</sup> *Ibid.*

It leads one to ask how such an incredible transformation would take place? If there is an answer to this question, Lululemon has not provided it. Instead, based on the information presented in this Application, the Applicants are of the opinion such promises are unrealistic and therefore misleading.

### **5. The General Impression Conveyed by the *Be Planet* Marketing Campaign**

The *Be Planet* marketing campaign portrays Lululemon as something it is not.

As illustrated above, the marketing campaign creates the general impression that Lululemon is a company whose operations and products are planet-friendly and the company is committed to making products and taking actions that contribute to improving the environment and restoring the health of the planet. However, the evidence portrays a different company. Lululemon's actions and products create substantial and increasing greenhouse gas emissions and cause significant environmental pollution.

## **V. CONCLUDING REMARKS**

The urgency of addressing climate change and environmental pollution demands that the apparel industry be clear and transparent with their customers about the climate and environmental impacts caused by their business. Consumers who make choices based on climate and environmental information, cannot be misled. To do so, not only takes business unfairly from those companies who accurately represent their environmental impact, but also creates the risk of greater harm to the planet caused by misinformed purchases.

As an apparel company responsible for significant greenhouse gas emissions, landfill waste, and release of microplastics into the environment, Lululemon should not be marketing itself as a company whose products and actions contribute to restoring a healthy planet<sup>97</sup> or even suggesting it is committed to such an unrealistic outcome. Representations of this nature are misleading and should be reserved for companies whose true purpose is protection of the environment and removing greenhouse gases from the atmosphere.

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<sup>97</sup> Lululemon, "Our Impact" online: <https://shop.lululemon.com/en-ca/story/sustainability>. See: *Be Planet*.

**APPENDIX A - EXAMPLES OF LULULEMON'S PUBLIC REPRESENTATIONS**

**Lululemon Impact Summary 2020, p. 9**  
[lululemon-2020-impact-summary-en110521.pdf](#)



**Our lives are one with the health of the planet. Our products and actions avoid environmental harm and contribute to restoring a healthy planet. Our goals:**

**SUSTAINABLE PRODUCT & MATERIAL INNOVATION**

Make 100% of our products with sustainable materials and end-of-use solutions to advance a circular ecosystem by 2030.

Achieve at least 75% sustainable materials for our products by 2025.<sup>6</sup>

**CIRCULARITY & NEW GUEST MODELS**

Offer our guests new business models that extend the life of products—reaching 100% of North American guests and piloting internationally by 2025.

**CLIMATE ACTION**

Meet our 2030 science-based targets.

Source 100% renewable electricity to power our owned and operated facilities by 2021.

**WATER & CHEMISTRY**

Reduce freshwater use intensity with our priority wet process suppliers by at least 20% by 2025.<sup>7</sup>

Implement ZDHC Manufacturing Restricted Substances List (MRSL) at 100% of priority suppliers by 2022.<sup>7</sup>

**WASTE & PACKAGING**

Reduce single-use plastic packaging by at least 50% per unit by 2025.

Learn more about how we're contributing to a healthier planet in our [Impact Report](#).

<sup>6</sup> We have defined sustainable materials as materials contributing to improved environmental and/or social impacts compared to conventional versions, including fibres that are recycled, renewable, responsibly sourced, or manufactured with low-resource processes.

<sup>7</sup> Priority suppliers are wet processing suppliers that produce 80% or more of our value annually and any supplier with production in a water-scarce region.



## Lululemon website: Our Impact

<https://shop.lululemon.com/en-ca/story/sustainability>



WOMEN

MEN

ACCESSORIES

SHOES

WE MADE TOO MUCH

Search

Sign In



## Be planet.

Our products and actions avoid environmental harm and contribute to restoring a healthy planet.



### Better products.

We're committed to making products that are better in every way—for people and the planet. We're adopting practices and creating solutions that enhance our products, minimize negative impact, and contribute to restoring the environment. We focus on making products with sustainable materials and end-of-use solutions, toward a circular ecosystem.

LEARN MORE



### Climate change and renewable energy.

We created science-based targets approved by the Science Based Targets initiative. To achieve these targets, we're implementing strategies to invest in the transition to renewable energy, drive carbon reduction and energy efficiency across our value chain, and collaborate across industries for progress.

LEARN MORE

## Lululemon website: Our Planet

<https://corporate.lululemon.com/our-impact/our-planet>

**Our Planet**

## We envision a future where we thrive within the limits of our one planet.

**Be Planet** is one of three interconnected pillars in our Impact Agenda, with a vision that our products and actions avoid environmental harm and contribute to restoring a healthy planet.

Our intent is to make products that are better in every way for people and the planet, along with aesthetic, function, and quality. **By adopting and evolving practices and mindful solutions, we enhance the products we offer and contribute to restoring the environment.**



## Lululemon website: Better Products

<https://shop.lululemon.com/en-ca/story/product-sustainability>



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WE MADE TOO MUCH

Q Search

## Better Products



We're adopting practices and creating solutions that enhance our products, minimize negative impact, and contribute to restoring the environment.

Our journey to better products includes:

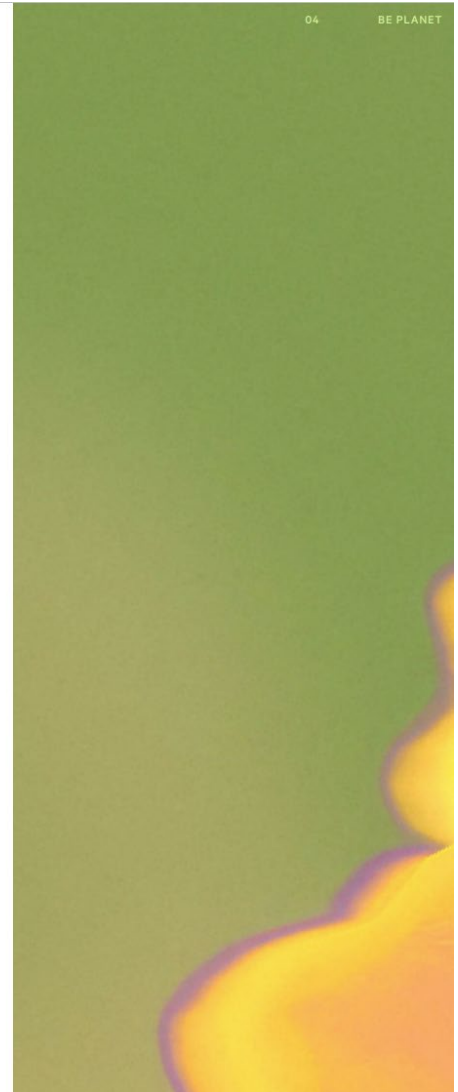
- innovating more sustainable materials
- creating circularity through new guest models
- using less water

**Lululemon Impact Report 2022, p. 46**

<https://corporate.lululemon.com/~media/Files/L/Lululemon/our-impact/reporting-and-disclosure/2022-lululemon-impact-report.pdf>

Our lives are *interconnected* with the health of the planet.

The potential of people is limitless, but the planet—our home—is not. At lululemon, we are on a journey to become a net-zero company and have set science-based targets that are the foundation for our climate action goals. We seek to lead in innovating preferred materials and create a circular ecosystem by designing out waste and keeping materials in use for as long as possible. We work across our value chain to reduce our carbon and water footprint, improve chemical management, develop and sell products that reflect the values of our guests, and contribute to a healthier environment.



**Lululemon 2020 Impact Agenda, p. 25**

[https://pimages.lululemon.com/content/dam/lululemon/www-images/Footer/Sustainability/lululemon\\_ImpactAgenda\\_October202023.pdf](https://pimages.lululemon.com/content/dam/lululemon/www-images/Footer/Sustainability/lululemon_ImpactAgenda_October202023.pdf)



# Our lives are one with the health of our planet.

We envision a future where we thrive within the limits of our one planet. That is why we act to avoid environmental harm and contribute to restoring a healthy planet.

At lululemon, we create products and experiences that reflect the values of our guests and our aspirations for a healthier world.

We will work to be part of a circular ecosystem, based on principles of designing out waste and pollution, keeping products and materials in use, regenerating natural systems, and using clean renewable energy.<sup>3</sup> Underlying is the

imperative to act on climate change, and we've set ambitious, science-based carbon targets that are linked to all of our Be Planet goals.

By transforming our materials and products, guest experience models, and supply chains and by partnering with our collective, suppliers, and industry stakeholders, we take responsibility to help evolve our industry toward a more sustainable future—one that is truly better for our planet.

We know we have a long way to go, but we're committed to accelerating our progress and being part of the solution.

**GOAL**

By 2030, we will make 100 percent of our products with sustainable materials and end-of-use<sup>5</sup> solutions, toward a circular ecosystem.





**Lululemon website: Like New (continued)**

**Shop Like New gear and start trade-in.**



**Good feelings all around.**

What's better than great finds on gently used lululemon gear? Knowing you're helping restore a healthier planet.

SHOP WOMEN'S

SHOP MEN'S



**Trade in. Get rewarded.**


Trade in eligible items and get credit you can use at lululemon.com and in any store.

- \$5 – All Shorts, Skirts, and Men's Shirts
- \$10 – All Hoodies, Sweatshirts, Sweaters, Pants, Crops, Leggings, Dresses, Large Bags (Backpacks, Duffles, and Totes larger than 10L)
- \$25 – All Outerwear

LEARN MORE

## Lululemon Press Release: lululemon Delivers on its Impact Agenda Commitments with Two New Sustainability Initiative Launching in May

<https://corporate.lululemon.com/media/press-releases/2021/04-20-2021-085727212>

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Home / Media / Press Releases / lululemon Delivers on its Impact Agenda Commitments with Two New Sustainability Initiatives Launching in May


# lululemon Delivers on its Impact Agenda Commitments with Two New Sustainability Initiatives Launching in May

Apr 20, 2021

*lululemon Like New recommerce program and Earth Dye product capsule reinforce the brand's focus on creating product experiences that are better for people and the planet*

VANCOUVER, British Columbia--(BUSINESS WIRE)-- lululemon athletica inc. (NASDAQ:LULU) today announced two new initiatives that underscore lululemon's commitment to its Impact Agenda and deliver on its future-facing commitments toward sustainability: lululemon*Like New*, the brand's first-ever recommerce program, and Earth Dye, a new, limited-edition collection made with earth-friendly dyes, both launching this May. The new initiatives are the latest efforts from the brand under its Be Planet pillar, which is focused on making products that are better in every way for people and the planet.

This press release features multimedia. View the full release here: <https://www.businesswire.com/news/home/20210420005419/en/>



"lululemon is actively working to help create a healthier future, and we are focused on meeting the goals detailed in our Impact Agenda, including making 100 percent of our products with sustainable materials and end-of-use solutions by 2030," said lululemon CEO Calvin McDonald. "Our lululemon*Like New* and Earth Dye initiatives are both meaningful steps towards a circular ecosystem and demonstrate the sustainable innovation underway in product development and retail."

Released in Fall 2020, lululemon's Impact Agenda marked the brand's stake in the ground toward an equitable, sustainable future, and outlined its vision to minimize environmental impact and contribute to a better world. Developing products with sustainable materials and end-of-use solutions are central to the multi-year strategy.



## Lululemon website: Our Planet

<https://corporate.lululemon.com/our-impact/our-planet>

**OUR IMPACT**

ABOUT US OUR BUSINESS **OUR IMPACT** INVESTORS MEDIA CAREERS

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## Climate Action

- Meet our 2030 science-based climate targets by achieving:
  - 60% absolute reduction of greenhouse gas (GHG) emissions in all owned and operated facilities<sup>2</sup> (Scope 1 and 2)
  - 60% intensity reduction of GHG emissions across our global supply chain<sup>3</sup> (Scope 3)
- Goal Met: Achieve 100% renewable electricity to power owned and operated facilities by 2021
- Become a net-zero company by 2050<sup>4</sup>

<sup>2</sup> Owned and operated refers to where lululemon has direct operational control. This goal refers to Scope 1 and 2 emissions.

<sup>3</sup> Includes purchased goods and services, and upstream transportation and distribution only. Intensity reduction is per net revenue from operations.

<sup>4</sup> The Science Based Target Initiative's Net-Zero standard requires companies to cut emissions by >90% and use permanent carbon removal and storage to counterbalance the final <10% of residual emissions that cannot be eliminated. We are submitting our application for SBTi's Net-Zero Standard certification in 2023.

**Learn more** →

**Lululemon Impact Agenda 2020, p. 32**  
[2020-impact-agenda.pdf \(lululemon.com\)](https://www.lululemon.com/2020-impact-agenda.pdf)



**GOALS**

By 2021, we will source 100 percent renewable electricity for our own operations.

By 2030, we will decarbonize our value chain, meeting ambitious, science-based targets.

## **Act on climate change and renewable energy.**

Climate change is the defining challenge of our time. Humans produce more carbon dioxide than nature can absorb, and the apparel industry contributes to this problem. We're working toward a carbon-neutral future, starting with cutting our own emissions across our value chain and supporting a global movement for action.



## Lululemon website: Climate Action

<https://corporate.lululemon.com/our-impact/our-planet/climate-action>

**Climate Action**

**Climate change is a defining challenge of our time. We're working to cut carbon emissions across our value chain, and support a global movement for action.**

Our strategy involves increasing efficiency, transitioning toward renewable energy sources, investing in raw material innovation, and cross-industry collaboration. Science-based targets help to align our goals with the Paris Agreement – to limit global warming to well-below 2°C above pre-industrial levels and pursue efforts to limit warming to 1.5°C.

**Lululemon website: Climate Action** *(Continued)*

<https://corporate.lululemon.com/our-impact/our-planet/climate-action>

<b>Renewable Electricity</b>	—
<p>We are making progress on our climate goals around carbon reduction.</p> <p>In September 2021, we signed a 15-megawatt virtual power purchase agreement (VPPA) with Enel Green Power for renewable energy from the Azure Sky wind project. The energy purchased is equivalent to the electricity needed to power 100% of our direct operations in North America. For our global operations, we purchased high-quality, renewable energy credits. We will continue to seek new opportunities that support net new renewable energy development in all regions where we operate.</p>	
<b>Energy Efficiency</b>	+
<b>Transportation and Logistics</b>	+
<b>Supplier Environmental Initiatives</b>	+
<b>Industry Collaboration</b>	+

## Lululemon Impact Agenda 2020, p. 4

[https://pnimages.lululemon.com/content/dam/lululemon/www-images/Footer/Sustainability/lululemon\\_ImpactAgenda\\_October202023.pdf](https://pnimages.lululemon.com/content/dam/lululemon/www-images/Footer/Sustainability/lululemon_ImpactAgenda_October202023.pdf)

# Our Impact Strategy

lululemon is a brand rooted in sweaty pursuits and personal growth, and our purpose is to elevate the world by realizing the full potential within every one of us.

In this moment, we see possibility within each of us to reflect on our priorities, evolve our strategies, and act boldly to contribute to a better world.

The costs of inaction are high. The global community must be more resilient in the face of global crises, including addressing inequity and turning the tide on climate change. To achieve a better and more sustainable future for all, we must accelerate progress in meeting the global challenges we all face, as outlined by the United Nations Sustainable Development Goals for 2030.

That's why we're bringing a new level of ambition to our impact work: to be responsible and do what's right. To activate the innovators and enable the doers. To create the space for each of us to make a difference, take action, and change the world for the better.

This Impact Agenda is our stake in the ground toward an equitable, sustainable future. Developed through internal and external engagement, it is rooted in the social and environmental contexts in which we operate and the societal issues that matter most for our business and industry. Our first holistic impact strategy, this agenda outlines our commitments to improve environmental impact, contribute to a healthier future, and create long-term value. It creates a path for change for our employees, guests, and communities that is grounded in who we are as a brand, building on our values, progress, and learnings over the past two decades.

Our Impact Agenda is organized into three interconnected pillars, each with a vision for success, goals, and commitments and strategies:

**Be human.** Our people succeed because we create an environment that is equitable, inclusive, and fosters growth.

**Be well.** Our communities thrive because we contribute to conditions that support mental, physical, and social wellbeing.

**Be planet.** Our products and actions avoid environmental harm and contribute to restoring a healthy planet.

We have a long way to go to meet our goals. We'll scale our successes, learn from our setbacks, and will report on our environmental, social, and governance progress at least annually.

Together, we will learn from today and build a healthier future—for ourselves, for our communities, and for our planet.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

AMANDEEP GYANI, individually and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff Miami-Dade (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

EGGNATZ | PASCUCCI, 7450 Griffin Road, Suite 230 Davie, Florida 33314 Tel: (954) 889-3359

DEFENDANTS

LULULEMON ATHLETICA INC. and LULULEMON USA INC.,

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Real Estate, Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Class Action Fairness Act, 28 U.S.C. § 1332(d)

Brief description of cause: Consumer protection/False Advertising claim brought pursuant to Florida Deceptive and Unfair Trade Practices Act Fla. Stat. §§ 501.201

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 07/12/2024 SIGNATURE OF ATTORNEY OF RECORD /s/ Joshua H. Egnatz

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. **(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- I. **(b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- I. **(c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
  - United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
  - Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
  - Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
  - Original Proceedings. (1) Cases which originate in the United States district courts.
  - Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
  - Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
  - Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
  - Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
  - Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
  - Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.

**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

AMANDEEP GYANI, individually and on behalf of all others similarly situated,

Plaintiff(s)

v.

LULULEMON ATHLETICA INC. and LULULEMON USA INC.,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) LULULEMON ATHLETICA INC. The Corporation Trust Company, As Registered Agent Corporation Trust Center 1209 Orange St. Wilmington, DE 19801

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Joshua H. Eggnatz EGGNATZ PASCUCCI, P.A. 7450 Griffin Road, Suite 230 Davie, FL 33314 (954) 889-3359

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

AMANDEEP GYANI, individually and on behalf of all others similarly situated,

Plaintiff(s)

v.

LULULEMON ATHLETICA INC. and LULULEMON USA INC.,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) LULULEMON USA INC. CT Corporation System, As Registered Agent 701 S. Carson Street, Suite 200 Carson City, NV 89701

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Joshua H. Eggnatz EGGNATZ PASCUCCI, P.A. 7450 Griffin Road, Suite 230 Davie, FL 33314 (954) 889-3359

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: